

# BSA QUICK GUIDE TO ELECTION PROGRAMMES

## What is the BSA's role in respect of election-related broadcast content?

The BSA's role is to address complaints about the content of 'election programmes' broadcast on TV or radio, and to determine whether they breach the Election Programmes Code (section 8(1) of the Broadcasting Act 1989). These complaints are made directly to the BSA. The BSA will endeavour to deal with election programme complaints as quickly as possible, after giving the parties involved an opportunity to comment. Note: Only general elections or by-elections for members of the House of Representatives are covered. Local body elections are not covered by this Code.

The BSA also considers complaints about the content of other programmes which may relate to the election (eg, broadcast news and current affairs coverage, satire and comment), under the Radio, Free-to-Air TV or Pay TV Codes. These complaints must first be made to the broadcaster, and then can be referred to the BSA if the complainant is dissatisfied with the response.

The BSA does not consider complaints about compliance with requirements such as promoter statements, written authorisation, allocation of funding, timing of broadcasting, or expense limits. These are dealt with by the Electoral Commission.

## What is an 'election programme' under the Broadcasting Act?

Section 69(1) of the Broadcasting Act 1989 defines an election programme as a programme that is broadcast on TV or radio during an 'election period' (see below) and:

- encourages or persuades, or appears to encourage or persuade voters to vote, or not to vote, for a political party or the election of a constituency candidate; or
- advocates support for, or opposes, a constituency candidate or political party; or
- notifies meetings held or to be held in connection with an election.

Usually, election programmes will appear as short promotional / campaign clips broadcast on TV or on radio, for political parties or constituency candidates.

## What about third party programmes?

The Court of Appeal has held that election programmes are only those that are broadcast *for political parties or candidates* – and **not** programmes initiated by broadcasters or other third parties (*The Electoral Commission v Watson & Jones*, CA239/2015 [2016] NZCA 512, 20 October 2016[link]).

This means that other programmes about election matters that are broadcast on TV and radio, including news, comment or current affairs in relation to an election, are **not** 'election programmes' and are not subject to the Election Programmes Code. For example, if a comedy programme aired on television in the lead-up to the election included a skit featuring or parodying a particular party and candidate, it would not be considered an election programme. If a political documentary aired on television shortly before the election, which commented on a party's track record on a contestable policy issue, this also would not be considered an election programme.

These programmes must however comply with the relevant broadcasting standards for Radio, Free-to-Air TV or Pay TV.

If the item is a third party-initiated 'election advertisement', it may be subject to the requirements under the Electoral Act (for which the [Electoral Commission](#) has responsibility), and any complaints

about the content of such an advertisement may be made to the [Advertising Standards Authority](#). Complaints about the content of TV or radio programmes that relate to the election, that are not election programmes or election advertisements, can be considered by the broadcaster under the relevant broadcasting code of practice (Radio, Free-to-Air TV or Pay TV), and then referred to the BSA if the complainant is not satisfied with the outcome.

## When can an election programme be broadcast?

Election programmes may only be broadcast during the 'election period'. It is an offence to broadcast an election programme for a party or candidate outside of this period. Contact the [Electoral Commission](#) for more information about this.

For this year's 2017 General Election, the election period runs from 23 August 2017 (writ day) to midnight on 22 September 2017 (the day before polling day).

## What are the standards that apply to election programmes?

Election programmes must adhere to the following standards ([Election Programmes Code](#), page 6):

- Standard E1: Election Programmes are subject to other Codes (*except for the balance standard – see below*)
- Standard E2: Factual information should be clearly distinguishable from opinion or advocacy.
- Standard E3: An election programme may not denigrate a political party or candidate.
- Standard E4: An election programme may not imitate an existing programme, format or identifiable personality in a manner that is likely to mislead.
- Standard E5: A party opening or closing address must be clearly identifiable as a party political broadcast

*Note: This standard will not apply to the 2017 General Election – legislative amendments have been passed (21 March 2017) that remove the requirement for Television New Zealand and Radio New Zealand to provide time for opening and closing addresses (see: [Broadcasting \(Election Programmes and Election Advertising\) Amendment Act 2017](#)).*

Only general elections or by-elections for members of the House of Representatives are covered. Local body elections are not covered by this Code.

Under Standard 1, election programmes are also subject to the same broadcasting standards as other programmes, for Radio, Free-to-Air TV, or Pay TV.

There is one important exception – the balance standard (which requires broadcasters to make reasonable efforts, or give reasonable opportunities, to present significant points of view on controversial issues of public importance) does not apply to election programmes (section 73 of the [Broadcasting \(Election Programmes and Election Advertising\) Amendment Act 2017](#)).

## Who should I to complain to?

The table that follows outlines different types of concerns in relation to election content, and the corresponding organisation that you should direct your concerns or a complaint to. If you require further guidance on where to send a complaint please contact us and we can ensure that your complaint is directed to the right place.

If we receive a complaint that ought to be considered by the Electoral Commission, the Press Council or the Advertising Standards Authority, we will forward your complaint to the correct agency, and advise you where it has been sent.

## What can I complain about and who do I complain to?

If I'm concerned about...	Who should I direct my complaint / query to?
<p>The content of an election programme broadcast on TV or radio, during the general election period.</p> <p><i>Example: In a TV clip initiated by, and promoting, political party X, the party leader used coarse language that offended me</i></p> <p><i>Example: In a radio programme slot paid for by political party X, the party leader interviewed a party X candidate about party X's election policies, and the candidate denigrated another party</i></p>	<p>Send your complaint directly to the <b>BSA</b> by post, email or online complaint form:</p> <p>Broadcasting Standards Authority          PO Box 9213          Wellington 6141          Email: <a href="mailto:info@bsa.govt.nz">info@bsa.govt.nz</a>          Online complaint form: <a href="http://www.bsa.govt.nz">www.bsa.govt.nz</a> under Complaints/Election Programmes Complaint to the BSA</p> <p>You need to lodge your complaint <b>in writing</b> with the BSA within <b>60 working days</b> of the broadcast being complained about. (However, the nature of election programmes means that complaints are most effectively brought as soon after the broadcast as possible.)</p> <p>Your complaint must include:</p> <ul style="list-style-type: none"> <li>• Details about the broadcast including the date and time of the broadcast, the name of the programme, the party or candidate featured in the broadcast, and the relevant channel/station.</li> <li>• The standards in the Election Programmes Code you believe have been breached, and why.</li> <li>• If you nominate Standard 1: Election Programmes Subject to Other Codes, also the standards in the relevant broadcasting code you believe have been breached (Radio, Free-to-Air TV, or Pay TV Code), and why.</li> </ul>
<p>The content of an election advertisement published in any other media, including print, online, pamphlets, billboards.</p> <p><i>Example: A billboard campaigning for a particular election candidate attacked another candidate</i></p>	<p>Send your complaint directly to the <b>ASA</b>:</p> <p>Advertising Standards Authority          PO Box 10675          Wellington 6143          Phone: (04) 472 7852          Freephone: 0800 234 357          Email: <a href="mailto:asa@asa.co.nz">asa@asa.co.nz</a>          Web: <a href="http://www.asa.co.nz">www.asa.co.nz</a></p>
<p>The content of a programme discussing election matters, broadcast on TV or radio (or on-demand, provided it was also broadcast on TV or radio).</p> <p><i>Example: A panel discussion on a news or current affairs programme misrepresented a particular party policy</i></p>	<p>Send your complaint to the relevant <b>broadcaster, within 20 working days</b> of the broadcast. (If you are complaining about <u>privacy only</u>, send your complaint directly to the BSA.)</p> <p>Your complaint must be <b>in writing</b> and must include:</p> <ul style="list-style-type: none"> <li>• Details about the broadcast including the date and time of the broadcast, the programme title, and the relevant channel/station</li> <li>• The standards in the relevant Code you believe have been breached (Radio, Free-to-Air TV, or Pay TV Code), and the reasons why.</li> </ul>

<p><i>Example: A comedy programme did a skit making fun of a particular election candidate</i></p> <p><i>Example: Either of the above examples viewed/listened to on-demand on a broadcaster's website, so long as the content was also broadcast on TV or radio, and the complainant can provide the details of the original broadcast</i></p>	<p>If you are dissatisfied with the broadcaster's response to your complaint, you are entitled to refer your complaint to the BSA for review.</p>
<p>A discussion of election matters in the editorial content (as distinct from advertising) in NZ Press Council members' publications.</p> <p><i>Example: A column in a newspaper (or the online version) covering election matters denigrated a particular candidate</i></p>	<p>Contact the <b>NZ Press Council</b> for advice on how to complain. Generally, a complaint needs to be lodged with the editor/broadcaster before you can take the complaint to the Press Council. For a list of Press Council members see the Press Council's website (below).</p> <p>NZ Press Council        PO Box 10 879        The Terrace        Wellington 6143        Phone: (04) 473 5220        Freephone: 0800 969 357        Email: <a href="mailto:info@presscouncil.org.nz">info@presscouncil.org.nz</a>        Web: <a href="http://www.presscouncil.org.nz">www.presscouncil.org.nz</a></p>
<p>The requirements relating to election programmes (under the Broadcasting Act), or election advertisements (under the Electoral Act), such as:</p> <ul style="list-style-type: none"> <li>• the requirement to include a 'promoter statement' (who initiated the programme/advertisement)</li> <li>• written authorisation to promote a party or candidate</li> <li>• funding allocations for election programmes/advertisements on TV, radio or the internet</li> <li>• timing of broadcasting an election programme</li> <li>• requirements for candidate election programmes</li> <li>• expense limits for election advertising</li> </ul>	<p>Contact the <b>Electoral Commission</b>:</p> <p>Electoral Commission        PO Box 3220        Wellington 6140        Phone: (04) 495 0030        Email: <a href="mailto:enquiries@elections.govt.nz">enquiries@elections.govt.nz</a>        Web: <a href="http://www.elections.org.nz">www.elections.org.nz</a></p> <p>For more information about election advertisements and requirements, see the Electoral Commission's <a href="#">Media Handbook – General Election 2017</a>.</p>