Investigation report no. BI-622

| Summary |  |
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| **Broadcaster** | Australian Broadcasting Corporation |
| **Findings** | ABC Radio National - *News update* - 20th April 2021 at 7:06 am [news]  ABC Radio Melbourne - *Mornings* - 20 April at 9:11 am and 9:23 am [current affairs]   * Breach of Standard 2.1 [accuracy], Standard 2.2 [materially mislead] and Standard 4.4 [do not misrepresent perspectives] * No breach of Standard 4.1 [due impartiality] or Standard 4.5 [unduly favour one perspective] |
| ABC NewsRadio - *Breakfast* - 20 April at 8.10 am [news]   * Breach of Standard 2.1 [accuracy], Standard 2.2 [materially mislead] and Standard 4.4 [do not misrepresent perspectives] |
| *ABC News 24*, 20 April 9:40 am [news]  ABC Radio Melbourne - *News update* - 20 April, 10:00 am [news]   * No breach of Standard 2.1 [accuracy], Standard 2.2 [materially mislead], Standard 4.1 [due impartiality] and Standard 4.5 [unduly favour one perspective] |
| **Relevant code** | ABC Code of Practice 2019 |
| **Date of broadcasts** | 20 April 2021 |
| **Date finalised** | 21 September 2022 |
| **Types of services** | National – radio and television |
| **Attachments** | **A** – Extracts from the complaint to the ACMA  **B** – Extracts from the broadcaster’s submissions to the ACMA  **C** – Relevant statements assessed under accuracy  **D –** Relevant provisions and the ACMA’s approach to assessing content |

Background

In November 2021, the Australian Communications and Media Authority (the **ACMA**) commenced an investigation under the *Broadcasting Services Act 1992* (the **BSA**) into 5 broadcasts by the Australian Broadcasting Corporation (the **ABC**) on ABC radio and television on 20 April 2021(the **broadcasts**).

The broadcasts reported on the findings by Victoria’s Office of the Conservation Regulator (the **OCR**) of alleged breaches of logging rules by VicForests, the state-owned business responsible for the harvest, sale and re-growth of timber from Victoria's State forests.

The broadcasts were:

* *News update* (ABC Radio National)at 7:06 am [news] (**RN news update**)
* *Mornings* (ABC Radio Melbourne) at 9:11 am and 9:23 am [current affairs] (**Mornings interview**)
* *Breakfast* (ABC NewsRadio) at 8:10 am [news] (**NewsRadio report**)
* *ABC News 24* (ABC News) at 9:40 am [news] (**TV news report**)
* *News update* (ABC Radio Melbourne) at 10:00 am [news] (**Radio Melbourne news update**).

The ACMA received a complaint alleging the broadcasts contained inaccuracies, presented information in a way that materially misled the audience, lacked impartiality, misrepresented perspectives, and unduly favoured one perspective over another (extracts of the complaint are at **Attachment A**).

The ACMA has investigated the ABC’s compliance with Standard 2 [accuracy] and Standard 4 [impartiality] of the ABC Code of Practice 2019 (the Code).

The ACMA’s investigation has focussed on the ABC’s presentation of the OCR’s investigation outcomes and statements the ABC attributed to the OCR in the broadcasts. The ACMA’s regulatory remit is confined to the material broadcast by the ABC. The ACMA makes its assessment based on information available at the time of the broadcast.

The complaint to the ACMA also included references to two radio broadcasts of ABC Victoria’s Statewide Drive, on 20 April 2021 and 21 April 2021. The ACMA notes the ABC has found these programs to be in breach of Standards 2 and 4 of the Code and has posted online corrections.[[1]](#footnote-2) Accordingly, this aspect of the complaint has not formed part of this investigation.

Issue 1: Accuracy

Relevant Code provisions

**ABC Code of Practice 2019**

**Standard 2. Accuracy**

2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.

2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

The ACMA also takes account of the related Principles set out in the Code (relevant extracts are at **Attachment D**).

Finding

The ABC breached Standard 2.1 and Standard 2.2 of the Code for the broadcasts of the RN news update, the Mornings interview and the NewsRadio report but did not breach Standard 2.1 or Standard 2.2 of the Code for the broadcasts of the TV news report or the Radio Melbourne news update.

Reasons

In the complaint, the alleged lack of accuracy across the broadcasts concerned 3 main assertions:

1. That the OCR had found VicForests had carried out logging ‘illegally’.
2. That the OCR had found these breaches had put Melbourne’s drinking water at risk.
3. That the OCR had declined to take action against VicForests for the breaches.

The complainant also alleged that the first 2 assertions were materially misleading to audiences. Where relevant, these have been assessed under Standard 2.2 of the Code.

The relevant statements assessed for accuracy are at **Attachment C**.

The ACMA’s approach to assessing the meaning conveyed by broadcast content and the considerations the ACMA uses in assessing whether or not broadcast material is factual are set out at **Attachment D**.

Relevant to the investigation, the complaint to the ABC alleged that:

* statements that the OCR had ‘found’ that:

(a) VicForests had illegally logged on steep slopes in 2 places; and

(b) that this had put Melbourne’s drinking water at risk

were ‘untrue’

* by suggesting that the regulator has ‘declined to take action’ the ABC was showing favourable treatment toward the perspective of the ecologist who raised the allegations about VicForests, over that of the Victorian regulator and VicForests.

The ABC responded to the complainant that:

* it was satisfied that it was accurate to state that the OCR found VicForests had *“illegally logged*” in two areas – it had sighted correspondence from the OCR in relation to the breaches which concluded that “VicForests did not comply with [the] legal requirement, being [MSP 3.5.1.1.](https://www.vic.gov.au/sites/default/files/2020-12/Management-Standards-and-Procedures-for-timber-harvesting-operations-in-Vics-State-forests-2014.pdf)” and that ‘we understand that the “MSP” are the ‘management standards and procedures’ which are incorporated into the [Code of Practice for Timber Production (2014)](https://www.vic.gov.au/timber-harvesting)’.
* it was satisfied that it was accurate to state that the OCR concluded VicForests had put *“Melbourne’s drinking water at risk*” – it had ‘sighted correspondence from the OCR in relation to these breaches which states*: ‘[t]he harvesting of slopes greater than 30 degrees in water supply protection areas results in an increased risk to waterway health and is not acceptable to the Conservation Regulator’*.
* it was satisfied that it was in keeping with the ABC’s accuracy standards for the presenter to introduce the brief news items by explaining: *“Victoria’s conservation regulator has declined to take action against VicForests for illegally logging in water catchments”* –that ‘as established, the OCR identified logging breaches in two locations, but did not take action against VicForests’.

Regarding the nature of the issue and requisite audience expectations, the ABC stated to the complainant:

The ABC’s impartiality guidance note explains that a story should be regarded as contentious if it is subject to obvious public debate; polarised views and evidence of high emotion; and contradictory facts. Audience and Consumer Affairs observe that the Victorian logging industry is a matter of contention and therefore the ABC audience would have high expectations that coverage of this issue would be accurate and impartial.

**2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.**

In applying Standard 2.1 of the Code, the ACMA considers:

* What did the material convey to the ordinary, reasonable listener or viewer?
* Was the particular content complained about factual in character?
* If so, did it convey a material fact or facts in the context of the relevant segment?
* If so, were those facts accurate?
* If a material fact was not accurate (or its accuracy cannot be determined), did the ABC make reasonable efforts to ensure that the material fact was accurate and presented in context?

*What did the material convey to the ordinary, reasonable listener or viewer*?

Across the 5 broadcasts, the ACMA assessed how the ABC presented information in the broadcasts and the meaning this conveyed to the audience about the outcome of the OCR’s investigation into VicForests, relevant to the complaint. The relevant statements assessed for factual accuracy are at **Attachment C**.

While there were consistent broad assertions throughout the 5 broadcasts, there was some variation between the broadcasts, as outlined below.

**RN news update, Mornings interview and NewsRadio report**

Relevant to the complaint, the broadcasts of the RN news update, the Mornings interview and the NewsRadio report conveyed that:

* The OCR had found VicForests had illegally logged on steep slopes.
* The OCR had found these breaches had put Melbourne’s drinking water at risk.

**TV news report and Radio Melbourne news update**

Relevant to the complaint, the broadcasts of the TV news report and the Radio Melbourne news update conveyed that:

* The OCR had found VicForests had illegally logged in water catchments.
* The OCR had declined to take action against VicForests over the breaches.

*Was the particular content complained about factual in character?*

In each of the 5 broadcasts, the relevant statements were made in a neutral, formal tone as uncontroverted facts about the findings of the OCR.

The assertions within the relevant statements, as outlined above, were specific, unequivocal and capable of independent verification.

The relevant content was factual in character.

*If so, did it convey a material fact or facts in the context of the relevant segment?*

All 5 broadcasts were concerned with the OCR’s findings of ‘illegal’ logging by VicForests, and allegations raised by an ecologist (the **ecologist**) of it being a widespread problem.

The ecologist’s research and complaint to the OCR had triggered the regulator’s investigation.

In the context of each broadcast, the findings of the regulator were material facts.

*If so, were those facts accurate?*

The ABC submitted 3 documents relevant to the assessment:

1. OCR’s signed investigation letter to VicForests dated 23 April 2020.
2. OCR’s published report: *Regulating timber harvesting on steep slopes* (the OCR report).
3. OCR’s ‘official statement’ sent to the ABC by email dated 19 April 2021.

Across these documents, the OCR’s statements about its investigation included that:

* in November 2019, the OCR had received a complaint alleging illegal timber harvesting on steep slopes between 2004 and 2019
* the OCR had assessed all aspects of the complaint
* given the ‘largely historic’ nature of the allegations, most of the allegations of unlawful timber harvesting were outside the two-year statute of limitations for legal action in the Act[[2]](#footnote-3)
* in 2020 the OCR opened two investigations into two specific instances of harvesting on steep slopes within coupes in the Upper Goulburn catchment (investigations 2019-0087 into coupe ‘To Wong Foo’, and 2019-0088 into coupe ‘The Wolfman’)
* the OCR had found a minor breach of the slope harvesting limit in each investigation
* the OCR found no evidence of demonstrable environmental harm, and the 2 logging coupes that were in breach were found by the OCR to have had no environmental impacts, including to soil and water quality
* allegations of systemic and widespread breaching of slope prescriptions could not be substantiated by the OCR
* the matter did not proceed to prosecution, consistent with the OCR’s Compliance and Enforcement Policy for breaches that have not caused environmental harm
* the OCR formally advised VicForests of its breaches and warned them of ‘significant penalties which apply under the Act[[3]](#footnote-4), should [a] future breach be identified’.[[4]](#footnote-5)

As noted previously, the ACMA’s assessment is limited to whether the OCR’s statements about their investigation findings were presented accurately in the broadcasts.

**RN news report, Mornings interview and NewsRadio report**

Assertion that the OCR had found VicForests had ‘illegally’ logged on steep slopes.

In making an assessment of accuracy, the ACMA will first look to the natural and ordinary meaning of the language used in the broadcast.

‘Illegal’ is defined in the *Macquarie Dictionary* as ‘not legal; unauthorised’[[5]](#footnote-6) and the ACMA is satisfied that this was the meaning that would have been understood by the ordinary reasonable listener or viewer.

The ACMA is satisfied from the documents listed above, that at the time of the broadcasts, the OCR had stated that VicForests had breached the requirements of logging laws in two locations, involving contraventions of a legal requirement about logging on steep slopes.

The ACMA is satisfied that the assertion that the OCR had found that VicForests had ‘illegally logged’ on steep slopes was factually accurate.

Assertion that the OCR had found the breaches had put Melbourne’s drinking water at risk.

The ABC submitted to the ACMA that it had viewed correspondence from the OCR stating:

Finding: Breach detected.

VicForests did not comply with legal requirements, being MSP clause 3.5.1.1

The harvesting of slopes greater than 30 degrees in water supply protection areas results in an increased risk to waterway health and is not acceptable to the Conservation Regulator.

The ABC asserted that the area affected by the logging was the Upper Goulburn catchment which, while not within Melbourne’s water catchment area, nevertheless was connected via the ‘North South Pipeline’ and could be used in times of critical need. Further, that the pipeline had been used in 2010 to supply drinking water to Melbourne.

The ABC further submitted to the ACMA:

What is meant by the expression ‘at risk’?

It is important to distinguish between an action putting water quality ‘at risk’ and that action causing actual harm.

Logging on steep slopes is illegal because it puts water quality at risk. The action is considered risky, regardless of whether actual harm is caused.

It is true that the OCR did not find evidence of actual harm to the water caused by the illegal logging.

But it is also true – as clearly demonstrated above – that the OCR found the illegal logging put the water at risk.

The phrase ‘put at risk’ is commonly used in news coverage to identify areas of potential vulnerability and is well understood by audiences.

As stated above, the three broadcasts conveyed that the OCR had found the logging breaches had put Melbourne’s drinking water ‘at risk’.

The ACMA acknowledges that the correspondence from the OCR included that the ‘harvesting of slopes greater than 30 degrees in water supply protection areas results in an increased risk to waterway health and is not acceptable to the Conservation Regulator’. This statement, coupled with the OCR’s finding of breaches of MSP clause 3.5.1.1, could imply that that the 2 breaches by VicForests had the potential to cause increased risk to waterway health in the applicable catchment.

However, the question for the ACMA is whether the ABC correctly attributed, to the OCR, a finding of breaches that put ‘Melbourne’s drinking water at risk’.

The ACMA considers that there is a material difference between a more general statement about increased risk to waterway health, and a finding that the OCR had identified breaches that had put Melbourne’s drinking water at risk.

The ACMA notes that the official statement from the OCR dated 19 April 2021 said [emphasisadded]:

Minor breaches of the slope harvesting limit were identified in each investigation. Technical assessments of the coupes were conducted which found **no environmental impacts including to** **soil and water quality**.

This is consistent with statements in the OCR report,which stated:

The Conservation Regulator found two breaches of the slope harvesting limit.

Technical assessments of the coupes, including onsite assessments, looked for evidence of erosion or mass soil movement resulting from these breaches.

No evidence of demonstrable environmental harm was found so the matter did not proceed to prosecution, consistent with the Conservation Regulator's Compliance and Enforcement Policy.

Given that, according to the statements from the OCR, that its investigation found ’no environmental impacts including to soil and water quality’, and the ‘North South Pipeline’ from the Upper Goulburn catchment was not being used to contribute to Melbourne’s drinking water at the time of the OCR’s finding, the ACMA considers it was not accurate to extrapolate the OCR’s statements and attribute to the OCR a finding of a risk to Melbourne’s drinking water from the 2 breaches.

As outlined above, the documents before the ACMA, with statements that were made by the OCR, do not support the view that the OCR had found that the 2 breaches by VicForests had risked Melbourne’s drinking water.

Accordingly, the relevant statements in the 3 broadcasts were inaccurate.

*If a material fact was not accurate (or its accuracy cannot be determined), did the ABC make reasonable efforts to ensure that the material fact was accurate and presented in context?*

The ACMA considers that it was clear from the OCR’s statement and the OCR report, both of which were supplied to the ABC prior to the broadcast, that the OCR had stated they had not identified environmental harm or impacts to water supply as a result of the breaches.

Further, there was no evidence before the ABC that the catchment area where the breaches had been identified was providing drinking water to Melbourne at the time of the breaches.

Accordingly, the ACMA does not consider that reasonable efforts were made by the ABC to ensure a material fact was accurate and presented in context in the relevant broadcasts

The ACMA finds that the ABC breached Standard 2.1 with respect to the broadcasts of the RN news update, the Mornings interview and the NewsRadio report in relation to attributing a statement to the OCR that it had not made, namely the assertion that the OCR had found the logging breaches by VicForests had put Melbourne’s drinking water at risk.

***TV news report and Radio Melbourne news update***

Assertion that the OCR had found VicForests had illegally logged in water catchments

Relevant to the assessment, the OCR report stated:

*Did the Conservation Regulator investigate allegations of non-compliant harvesting on steep slopes in water catchment areas?*

Yes, all aspects of the original report were assessed. As a result, the Conservation Regulator launched two separate investigations into timber harvesting on steep slopes.

[...]

*What was the result of the Conservation Regulator's investigations?*

The Conservation Regulator found two breaches of the slope harvesting limit.

The ACMA has already outlined above that the use of the term ‘illegal’ to characterise the breaches of requirements under logging laws by VicForests was accurate.

Further, the OCR’s report stated that the 2 breaches were the result of investigations into ‘non-compliant harvesting on steep slopes in water catchment areas’.

Therefore, the assertion that VicForests had been found by the conservation regulator to have illegally logged in water catchments was accurate.

Assertion that the OCR declined to take action against VicForests over the breaches.

The OCR report stated:

No evidence of demonstrable environmental harm was found so the matter did not proceed to prosecution, consistent with the Conservation Regulator's Compliance and Enforcement Policy.

However, the Conservation Regulator did formally advise VicForests of its breach and warn the entity of the significant penalties which apply under Act, should future breach be identified.

The ACMA is satisfied from the documents it has viewed, that the OCR did not pursue formal action against VicForests, such as prosecution, penalties or imposing additional restrictions on VicForests logging activities, as a result of the 2 breaches.

While advice of a breach and a warning about potential penalties are steps taken to promote future regulatory compliance, the ACMA considers an ordinary, reasonable listener or viewer could understand a regulator ‘taking action’ in this case to refer to formal statutory action against the party in breach rather than less formal non-statutory action.

The ACMA therefore considers that the statements in the two broadcasts that the OCR declined to take action against VicForests over the breaches were sufficiently accurate.

Accordingly, the ABC did not breach Standard 2.1 in the broadcast of the TV news report and the Radio Melbourne news update.

**Standard 2.2 – Do not present factual content in a way that will materially mislead the audience.**

The ACMA has assessed whether the relevant statements in the broadcasts constituted the presentation of factual content in a way that materially misled the audience.

***‘Illegal logging’***

The complainant alleged that statements across the 5 broadcasts that VicForests had ‘illegally’ logged in water catchments were untrue and misleading.

As outlined above, the ACMA is satisfied that describing breaches of requirements under logging laws as ‘illegal’ was accurate, and there was nothing in the way that this information was presented in the broadcasts to suggest that this characterisation was misleading to audiences about the stated findings of the OCR.

The ACMA is satisfied that the ABC did not breach Standard 2.2 of the Code with regard to the statements about ‘illegal logging’ across the 5 broadcasts.

***‘Melbourne’s drinking water’***

The complainant alleged that the relevant statements in the RN news report, Mornings interview and NewsRadio report about risks to Melbourne’s drinking water were misleading and ‘designed to sensationalise [the] claims and create a hook for a story of interest to a Melbourne or National audience’.

As outlined above, attributing the assertion that these breaches had risked Melbourne’s drinking water, to the OCR, was factually inaccurate.

However, the ACMA considers that the assertion separately conveyed that the OCR had found a significant risk to Melbourne’s drinking supply as a direct result of the breaches. This assertion materially exaggerated the impact and seriousness of the breaches found by the OCR in its investigation.

By overstating the impact of the OCR’s findings to include a serious environmental risk that was not identified in the OCR’s report, the error had the potential to not only mislead the audience’s understanding of actual risks to Melbourne’s drinking water that had been found by the regulator, but also their expectations of a regulator’s proportionate response to such a breach. Both were material concerns in each of the broadcasts.

The ABC further submitted:

The ABC further submits that the preliminary finding that standard 2.2 was breached in each of the three broadcasts relies on phrases presented in isolation, without due consideration of the items in their entirety.

In its submission, the ABC asserted that the 3 broadcasts were not misleading as they contained sufficient contextualising information, which included that the ecologist was critical of the OCR’s finding with respect to ‘widespread breaches’ and that in the case of the Mornings broadcast, the interview was closed with an assurance that Melbourne’s drinking water was safe:

[Host]: Alright, well that’s a further conversation. Just finally, when we Victorians, we Melburnians turn on our tap, can we have faith in our water?

[Ecologist]: We can, as long as we don’t continue to log steep slopes.

The ACMA was not persuaded by these arguments. There were no further statements in any of the broadcasts to remedy the error that had attributed a statement to the OCR that it had not made by conveying that the OCR had found the 2 breaches by VicForests had risked Melbourne’s drinking water.

Inclusion in the broadcasts of criticism by the ecologist of the work of the OCR, due to their research identifying ‘widespread and systemic breaches’ of slope prescriptions that had been allegedly missed by the OCR, did not go to the issue of attributing a statement to the OCR about risks to Melbourne’s drinking water.

Neither did the inclusion of statements from the OCR that refuted the allegations about the ‘widespread and systemic’ nature of the breaches, which was a different issue altogether.

The inclusion in the Mornings interview of an assurance that people in Melbourne could ‘have faith in [their] water’ did not remedy the earlier statement that had incorrectly attributed a finding to the OCR.

Nor did it address what actions might be reasonably expected from the OCR in order to apply a proportionate regulatory response.

The ACMA therefore considers that the inclusion of statements in the RN news update, the Mornings interview and the NewsRadio report, attributing to the OCR that it had found that logging by VicForests had put Melbourne’s drinking water at risk, materially misled the audience’s understanding of actual risks to Melbourne’s drinking water and what the regulator found, as well as giving rise to false expectations of the regulator’s response to the breaches it had found.

Accordingly, the ABC breached Standard 2.2 of the Code with respect to the broadcasts of the RN news update, the Mornings interview and NewsRadio report. The ABC did not breach Standard 2.2 of the Code in the broadcasts of the TV news report and the Radio Melbourne news update.

Issue 2: Impartiality and diversity of perspectives

**ABC Code of Practice 2019**

**Standard 4**

4.1 Gather and present news and information with due impartiality.

[...]

4.4 Do not misrepresent any perspective.

4.5 Do not unduly favour one perspective over another.

The ACMA also takes account of the related Principles set out in the ABC Code (relevant extracts are at **Attachment D**.

Relevant to the complaint and concerns raised in the investigation:

* 4 broadcasts were assessed under Standards 4.1 [due impartiality] and 4.5 [unduly favour one perspective] of the Code (the RN News update, the Mornings interview, the TV news report and the Radio Melbourne news update)
* 3 broadcasts were assessed under Standard 4.4 [do not misrepresent perspectives] of the Code (the RN news update, the Mornings interview and the NewsRadio report).

Finding

The ABC breached Standard 4.4 in the broadcasts of the RN news update, the Mornings interview and the NewsRadio report.

The ABC did not breach Standards 4.1 or 4.5 of the Code for the broadcasts of the RN News update, the Mornings interview, the TV news report and the Radio Melbourne news update.

Reasons

To assess compliance with Standard 4, the ACMA has considered the following:

* contextual factors
* the ABC’s hallmarks of impartiality.

The Principles underpinning the ABC’s impartiality obligations in Standard 4, which include a range of ‘hallmarks’ for impartiality (listed in **Attachment D**), do not operate as a checklist but rather inform the way in which the ABC must discharge its obligation to gather and present information impartially.

These Principles also assist news, current affairs and factual content producers in making considered editorial judgements about the nature of the content they produce, and the context in which it appears. The ACMA’s approach to assessing the meaning of content is explained in **Attachment D**.

**Contextual factors**

The Code requires news and information to be gathered with ‘due’ impartiality, and that one perspective is not ‘unduly’ favoured over another.

The inclusion of the words ‘due’ and ‘unduly’ recognises that judgements must be made about what is appropriate, fitting and justified having regard to all the relevant circumstances relating to the subject matter of the report, and to associated audience expectations.

Under the Code, impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented within a single program.

A program that presents a perspective that is opposed by a particular person or group is not inherently partial.

The Principles in Standard 4 of the Code further note that assessing whether a breach of impartiality has occurred will involve considering all relevant contextual factors, including:

* the type, subject and nature of the content;
* the circumstances in which the content is made and presented;
* likely audience expectations of the content;
* the degree to which the matter to which the content relates is contentious;
* the range of principal relevant perspectives on the matter of contention; and
* the timeframe in which it would be appropriate for the ABC to provide opportunities for the principal relevant perspectives to be expressed, having regard to the public importance of the matter of contention and the extent to which it is the subject of current debate.

Accordingly, the extent to which the inclusion of certain information or perspectives will be necessary to meet the Code’s obligations with respect to impartiality and diversity of perspectives may vary from case to case having regard to these contextual factors.

In making its assessment, the ACMA considered the subject and nature of the content, the circumstances in which the content was made and presented in the context of each broadcast, and the likely audience expectations.

**The ACMA’s assessment of Standard 4.4**

Standard 4.4 of the Code requires the ABC to not misrepresent any perspective that is addressed in a broadcast item.

As outlined above, the ACMA considers that attributing the assertion to the OCR that it had found that breaches of logging requirements by VicForests had put Melbourne’s drinking water at risk was a factually inaccurate attribution. It was also materially misleading as it exaggerated the impact and seriousness of the associated risks from the breaches reported by the OCR from their investigation.

This assertion/attribution was made in 3 broadcasts, being the RN News update, the Mornings interview and the NewsRadio update.

The complainant alleged that the OCR’s investigation findings were misrepresented and that this contributed to a lack of impartiality in the relevant broadcasts.

The question at hand is whether the presentation of the OCR’s findings and the attribution of statements to the OCR constituted the misrepresentation of a perspective in these broadcasts.

Relevantly, the stated findings of the OCR included that:

The Conservation Regulator found two breaches of the slope harvesting limit.

Technical assessments of the coupes, including onsite assessments, looked for evidence of erosion or mass soil movement resulting from these breaches.

No evidence of demonstrable environmental harm was found so the matter did not proceed to prosecution, consistent with the Conservation Regulator's Compliance and Enforcement Policy.

The viewpoint of a regulator is one of authority, with statutory power to take action on a matter.

By erroneously attributing to the OCR a finding of a risk to Melbourne’s drinking water, the broadcasts not only misrepresented the findings of the OCR’s investigation, but also the OCR’s perspective about the seriousness of the breaches it had found.

This cannot be said to be a fair representation of the OCR’s perspective on the findings of the investigation, nor, given the misrepresentation of the seriousness of the breaches found by the OCR, of the OCR’s perspective on the appropriate response to the breaches found.

The ABC further submitted:

Assessing impartiality requires material to be considered in context. As set out above, these three items of content included additional contextualising material which ensured that the OCR’s finding was not misrepresented. It was apparent from each of the broadcasts that the OCR’s perspective was in contrast to the findings of [the ecologist’s] research. Whereas [the ecologist] had concluded that illegal logging was significant and widespread, the OCR had found breaches in only two places. Their respective views of the seriousness of the matter differed accordingly.

While the ABC submits that each of the broadcasts complied with accuracy standards, a finding of inaccuracy in characterisation of a viewpoint does not necessarily amount to a breach of impartiality standards. As no other aspect of the broadcasts points to a lack of impartiality, any unintentional error in the presentation of the OCR’s perspective should not be found to breach this standard.

The ACMA is not persuaded by these arguments. As stated, contention between the findings of the OCR’s investigation and the ecologist about whether illegal logging by VicForests was a ‘widespread’ issue, is not the same as the OCR’s findings on the 2 breaches by VicForests, and whether the OCR identified risks to Melbourne’s drinking water.

The ACMA accepts that ‘a finding of inaccuracy in characterisation of a viewpoint does not necessarily amount to a breach of impartiality standards’. However, in this case, the relevant provision concerns the misrepresentation of perspectives, and the ACMA does not consider that the perspective of the OCR regarding risks it identified as a result of the breaches, was represented fairly or accurately in the 3 broadcasts.

Instead, the ABC attributed a perspective to the OCR that was not present in any of its published findings about the investigation or in any other documents before the ACMA.

Accordingly, the ABC breached Standard 4.4 of the Code in the broadcasts of the RN News update, the Mornings interview and the NewsRadio report by misrepresenting the perspective of the OCR.

**The ACMA’s assessment of Standards 4.1 and 4.5**

Standard 4.1 of the Code requires the ABC to gather and present news and information with due impartiality. Standard 4.5 requires the ABC to not unduly favour one perspective over another.

The complainant alleged that 4 of the broadcasts were not impartial, referring to:

* a lack of impartiality in the gathering and presenting of news.
* preferential treatment of the ecologist’s perspective over that of the OCR and VicForests.

The ACMA’s assessment of these allegations, across the 4 programs, is set out below.

**RN News Update**

The broadcast was a 43 second news update broadcast on ABC Radio National at 7:06 am on 20 April 2021, which included a report on the findings of the OCR about breaches by VicForests of requirements under logging laws.

The broadcast referred to the ecologist’s peer-reviewed academic publication of findings alleging that illegal logging was a ‘widespread problem’. It included a brief statement from the ecologist that they had ‘found significant evidence of these breaches on 75% of 214 logging coupes in just one catchment alone’.

This was followed by the reporter stating that the regulator had said the claim of widespread breaches ‘could not be substantiated’, and that VicForests had denied the claim and said it had ‘measures in place to protect water’.

The complainant alleged that the OCR’s findings were misrepresented in the broadcast, and that the [ABC] had demonstrated [...] bias in its coverage of the issue.

The complainant also alleged the ABC ‘unduly favoured’ the ecologist’s perspective in the broadcast.

**Standard 4.1**

The ACMA notes that it was legitimate for the ABC to report on the official findings of a regulator, and to include statements from the qualified ecologist who had submitted the complaint to the OCR and had conducted research.

The ACMA notes that the broadcast, while brief, included extracts of statements from VicForests denying the claims about widespread breaches, and from the OCR, outlining that in its view, the allegations of widespread breaches could not be substantiated.

These statements:

* indicated to the audience that this was a contentious issue, and that there was a difference in viewpoints between the ecologist and the OCR; and
* provided alternative principal relevant perspectives about the matter – that of the relevant regulatory authority (the OCR) and the affected party in the investigation (VicForests).

Throughout the broadcast the reporter’s tone was neutral and formal; there was no emotive language or indication of enmity towards VicForests.

The ACMA could find no evidence that either the statements made in the broadcast, or the manner of their presentation, demonstrated a lack of due impartiality by the ABC.

Accordingly, the ABC did not breach Standard 4.1 of the Code in the broadcast of the RN News update.

**Standard 4.5**

In assessing whether the ABC unduly favoured one perspective over another, the ACMA notes that the reporter sought interviews for the story with both VicForests and the OCR. Both declined but provided written statements instead. Extracts from those statements were included in the broadcast.

The ACMA considers that the perspectives included in the broadcast were of:

* the relevant regulatory authority (the OCR);
* an expert, being an ecological scientist who had raised allegations about widespread issues with VicForests’ logging; and
* the affected party in the OCR investigation (VicForests).

Given the brevity of the broadcast, the extracts from the statements of the OCR and VicForests included in the broadcast were likewise brief. However, the ACMA considers these three perspectives were commensurate with audience expectations for the range of principal relevant perspectives appropriate to a news update.

The brief extract of an interview with the ecologist discussing their findings was presented as their own scientific opinion based on their peer-reviewed research.

There were no conclusions drawn by the reporter about the allegations of widespread issues, nor any accompanying information indicating support for a particular view, and the listener was ultimately left to make up their own mind about an issue that was contentious.

Accordingly, the ABC did not unduly favour one perspective over another in the broadcast, and therefore did not breach Standard 4.5 of the Code for the broadcast of the RN News update.

**Mornings interview**

The broadcast comprised 2 current affairs segments broadcast on ABC Radio Melbourne at approximately 9:11 am (‘upcoming’ promo of 45 seconds) and 9:23 am (longer interview segment of 7 minutes, 52 seconds).

The promo gave information about an upcoming interview with the ecologist who had raised the allegations. It also included basic information about the OCR’s findings and stated that VicForests had rejected the findings.

The interview itself featured the ecologist and included the host reading out sections of the findings from the OCR report.

The following extracts are relevant to the complaint:

The host: Now, I’ve got a statement from VicForests, VicForests actually manages our so-called sustainable logging on behalf of the government and they’re rejecting that. But, ah, you’ve heard the finding in the conclusion in the news from the Office of the Conservation Regulator, let’s talk in just a moment to [the ecologist].

[…]

The host: Well, it looks to me sitting here with all of their statements surrounding me that between the response from VicForests pretty much saying nothing to see here and the response of the Conservation Regulators saying yeah, we had a word to them and said, you know, make sure, please make sure you’re doing the right thing, **that** **nothing really is going to change**?

The complainant expressed the following concerns about the broadcast, relevant to the investigation:

* In the promo, the host’s use of *‘so called’* in reference to sustainable logging showed a preference for the viewpoint of the ecologist over that of the OCR and VicForests.
* In the interview, the host’s comment *‘that nothing really is going to change’* indicated that the ABC was preferencing the ecologist’s views over the position of the OCR and VicForests.

The ABC responded to the complainant about use of the word ‘so-called’ in the promo:

Audience and Consumer Affairs are satisfied that the use of “so-called” was in keeping with the Macquarie dictionary definition “called or designated thus”: it is accurate and fair to describe VicForests as the designated manager of sustainable logging on behalf of the state government. The use of the word “but” simply reflects the fact that VicForests does not agree that the OCR found two instances of illegal logging; again, this is an accurate and fair use of language.

Regarding the host’s reference to ‘nothing really is going to change’ and the complainant’s concerns about unduly favouring one perspective, the ABC responded:

It is open to ABC presenters to put forward evidence-based conclusions, based on their analysis of the information available. In this case, Audience and Consumer Affairs are satisfied that the conclusion of the presenter was reasonable: no action was taken by the OCR in light of the breaches found by [the ecologist], and [their] allegations of widespread illegal logging have been rejected by both the OCR and VicForests.

**Standard 4.1**

The ACMA notes that it was legitimate for the ABC to interview a qualified ecologist about allegations they had raised as a result of their research, and to seek their perspective on the outcome of the OCR investigation.

Significantly, with regard to principal relevant perspectives, the ABC sought an interview with VicForests which, as explained to listeners, was declined, and the statement provided by VicForests was prominently featured in the second segment in the broadcast.

The broadcast also presented statements from the OCR where they refuted the allegations that illegal logging by VicForests was a systemic and widespread problem.

The host demonstrated open-mindedness to the varying sources of information before them. Throughout the interview the host queried the ecologist’s views and enquired about the difference of findings between them and the regulator.

Overall, the broadcast provided a range of perspectives, presented the topic as a contentious one, demonstrated open-mindedness, and ultimately left the listener to make up their own mind.

Accordingly, the ABC did not breach Standard 4.1 of the Code in the broadcast of the Mornings interview.

**Standard 4.5**

In assessing whether the ABC unduly favoured one perspective over another, the ACMA notes that the perspectives included in the broadcast were of:

* the relevant regulatory authority (the OCR);
* an expert, being an ecological scientist who had raised allegations about widespread issues with VicForests’ logging; and
* the affected party in the OCR investigation (VicForests).

The ACMA considers that these three perspectives were commensurate with audience expectations for the range of principal relevant perspectives appropriate to the segment, and that inclusion of the interview with the ecologist did not reflect a favouring of their perspective over that of the OCR or VicForests, who were also invited to comment and/or be interviewed.

Regarding the presentation style of the host, the complainant expressed concern that specific phrases reflected an undue favouring of the ecologist’s perceptive. As with all assessments of impartiality, the ACMA assessed these statements in the context of the program as a whole.

*‘So called’*

The ACMA does not agree with the ABC’s characterisation of the meaning conveyed by the use of ‘so called’ prefacing ‘sustainable logging’ in the broadcast, as outlined in its submission above.

The ACMA considers it was clear from the tone and the context that ‘so called’ was intended to carry meaning beyond literally stating a function performed by VicForests.

When assessed in the context of the topic under consideration, the host’s enquiring tone, and their questioning about the research, ‘so called’ functioned as a signal to audiences of contention over the sustainability of VicForests’ logging.

Its use, in context, did not demonstrate a particular conclusion or ‘side’ taken, and the information that followed provided sufficient context to listeners that the matter had multiple alternative perspectives and was contentious.

‘That nothing really is going to change’

The ACMA considers it was legitimate for the ABC to pursue a particular line of questioning in a matter of public contention alleging widespread environmental risks – including to query whether it might be an ongoing issue.

The host’s reference to ‘nothing really is going to change’, was prefaced by ‘well, it looks to me’, and formed part of their questioning. This appeared to be in keeping with the style of the host’s presentation throughout the broadcast.

Overall, the matter was presented as contentious, with multiple perspectives. There was no conclusion drawn advocating for a particular view, with the host signing off, ‘so who’s holding the smoking gun?’

The ACMA considers the broadcast did not unduly favour one perspective over another.

Accordingly, the ABC did not breach Standard 4.5 of the Code in the broadcast of the Mornings interview.

**TV news report**

The broadcast was a TV news report of 5 minutes 15 seconds duration on the OCR’s findings about VicForests. It included an interview with the ecologist who had raised the allegations with the OCR as a result of their research.

The broadcast included the host providing extracts of the OCR’s statement that it had found the allegations of ‘widespread breaches’ could not be substantiated.

The host questioned the ecologist about their research and scientific opinion, including querying why the ecologist ended up with different results than the OCR.

The complaint expressed specific concern about impartiality in the following statement made by the presenter:

Victoria's conservation regulator has declined to take action against VicForests for illegally logging in water catchments.

Further, the complainant alleged that the views of the ecologist were preferred over the position of the Victorian regulator and VicForests.

**Standard 4.1**

The ACMA notes that it was legitimate for the ABC to report on the OCR’s findings and to interview the qualified scientist who had submitted the complaint to the OCR along with their research.

Significantly, the broadcast included a statement from the OCR that rejected the allegations of ‘widespread’ illegal logging. This was presented early in the broadcast and indicated to audiences that the matter was contentious, while also providing an alternative perspective.

In this context, the statement ‘Victoria's conservation regulator has declined to take action’ did not represent a partial stance on the issue, but rather reflected the reported outcome of the investigation, which was thatthe matter did not proceed to prosecution by the OCR in line with its enforcement policy.

This was further contextualised by the host stating, ‘The Chief Conservation Regulator says the claims of widespread breaches cannot be substantiated after finding breaches in just two areas’.

Throughout the interview the host demonstrated open-mindedness, including by querying why the ecologist’s views had differed from the OCR’s stated findings.

The host used a neutral, formal tone throughout the broadcast and did not use emotive language. Ultimately, the issue was presented as contentious with multiple perspectives, and there was no conclusion drawn in the program advocating for a particular view.

The ACMA considers the ABC presented the program with due impartiality.

Accordingly, the ABC did not breach Standard 4.1 of the Code in the broadcast of the TV news report.

**Standard 4.5**

In assessing whether the ABC unduly favoured one perspective over another, the ACMA notes that the perspectives given in the broadcast included those of:

* the relevant regulatory authority (the OCR)
* an expert, being an ecological scientist who had conducted their own research and had raised allegations about widespread issues with VicForests’ logging.

The ACMA notes that it was newsworthy to include the opinions of a scientist who had reported alleged breaches to a regulator, and the range of perspectives given was appropriate to the topic of the report.

The ACMA also considers that interviewing the ecologist did not represent preferential treatment. Instead, the ecologist’s views were appropriately presented as their own scientific opinion, which they were entitled to share in the interview format.

The broadcast also made clear that the allegations were contested by the OCR and VicForests. This included the host describing the allegations of ‘widespread breaches’ as a ‘difference of opinion between you and the regulator’.

The host’s neutral language and tone reflected that they had reached no conclusion on the matter, and ultimately, the viewer was left to make up their own mind on a matter of contention.

The ACMA considers that the ABC did not unduly favour one perspective over another in the broadcast.

Accordingly, the ABC did not breach Standard 4.5 of the Code in the broadcast of the TV news report.

**Radio Melbourne news update**

The broadcast was a news update of 44 seconds duration with a report on the OCR’s findings that VicForests had breached requirements under logging laws. It included statements from the OCR refuting allegations of ‘widespread’ illegal logging, and from VicForests that the breaches ‘didn’t harm the environment’. It also included the statement

Victoria's conservation regulator has declined to take action against VicForests for illegally logging in water catchments.

The complainant alleged that, by stating the regulator had ‘declined to take action’, the ABC was taking a position that the ecologist’s views should be preferred over the position of the OCR and VicForests.

**Standard 4.1**

The ACMA notes that it was legitimate for the ABC to report on the OCR’s findings and to include excerpts of an interview with the qualified scientist who had made the complaint to the OCR.

While brief, the inclusion of statements from the OCR and VicForests indicated to audiences that the matter was contentious and provided alternative principal relevant perspectives in the broadcast.

The statement of concern to the complainant about the OCR having ‘declined to take action’ was contextualised by the OCR’s statement that the allegations of widespread breaches could not be substantiated, after finding breaches ‘in just 2 areas’, and was consistent with the information in the OCR’s published report.

Throughout the broadcast the reporter’s tone was neutral and measured and did not contain emotive language or judgement. The ecologist’s views were appropriately presented as their own scientific opinion, and there were no conclusions drawn in the broadcast supporting a particular view.

Accordingly, the ABC presented the program with due impartiality and did not breach Standard 4.1 of the Code in the broadcast of the Radio Melbourne news update.

**Standard 4.5**

In assessing whether the ABC unduly favoured one perspective over another, the ACMA notes that the perspectives included in the broadcast were those of:

* the relevant regulatory authority (the OCR);
* an expert, being an ecological scientist who had raised allegations about widespread issues with VicForests’ logging; and
* the affected party in the OCR investigation (VicForests).

The ACMA considers these three perspectives were commensurate with audience expectations for the range of principal relevant perspectives appropriate for a brief news update.

The ACMA considers that it was appropriate for the report to include concerns raised by the ecologist about the OCR findings.

The ACMA could find no evidence in the brief report that the ecologist’s views were unduly favoured over other perspectives. Instead, the ecologist’s allegations were framed as the result of their own research and their expert opinion, which had been disputed in the statements from the OCR and VicForests.

Further, there was no overall conclusion reached by the end of the report and the listener was ultimately left to make up their own mind about the issue.

The ACMA considers that the ABC did not unduly favour one perspective over another in the broadcast.

Accordingly, the ABC did not breach Standard 4.5 of the Code in broadcasting the Radio Melbourne news update.

Attachment A

Extracts ofComplaint

***Extracts of complaint to the broadcaster dated 27 May 2021:***

[...] Numerous ABC online and radio reports that aired on [20] April 2021 about harvesting by VicForests clearly breached the ABC’s Editorial Standards, particularly standards 2.1, 2.2, 4.1, 4.2 and 4.3. As these reports have materially misrepresented facts, are misleading, and have caused damage to our reputation and public confidence in the regulation of timber harvesting and water quality, we request consideration of the matters set out below, and the correction of this misinformation pursuant to standard 3.1.

**Attachment 1** details specific complaints about claims, allegations and comments made by ABC journalists, hosts, and commentators. These comments were repeated, or similar comments were made, in more than 150 instances over the period [*attachment not included in this investigation report*].

**Inaccurate and misleading claims**

VicForests’ considers that this series of reports were inconsistent with the ABC’s Editorial Standards, particularly standards 2.1 and 2.2:

2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.

2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information. This series of reports presented material facts that were not accurate and not presented in context – with reports on [20] April repeatedly stating:

“The conservation Regulator says Victoria state-owned logging company has illegally logged an important water catchment.” (**see** **Attachment 1**)

This statement was [inaccurate]. The Regulator had made no such finding and had said no such thing. On the contrary, the Regulator had advised [the ABC] that claims made [...] had not been substantiated as was referred to in the same item. The Regulator instead advised that there were 2 minor breaches of standards. This is not a finding of illegality.

[...]

The report also stated:

“Victoria’s Office of the conservation Regulator has found VicForests has illegally logged on steep slopes in two places putting Melbourne's drinking water at risk.”

This statement was also [inaccurate] and misleading. It contains statements that were incorrect, and material facts that were not accurate or complete, and were not presented in context.

Firstly, [the ABC] was [...] aware that the Regulator had made no finding of “illegal logging”. The Regulator had formally advised [the ABC] that it had instead found 2 minor breaches of a regulatory requirement. This was not a finding of illegality and no legislation had been breached.

Secondly, [the ABC] was [...] aware that the Regulator had found that there was no impact due to the minor nature of the two instances as [the ABC] had been told this in a formal response. The statement that that the Regulator had found that the harvesting would put Melbourne drinking water at risk was [inaccurate].

Thirdly, it is clear from the source material used by [the ABC}… was the study undertaken … in the Upper Goulburn Valley. No water sources from the Upper Goulburn Valley feed into the Melbourne water catchment. The North-South Pipeline has never been used, and it is public Victorian Government Policy that it will never be used. It is therefore impossible that any of the activity in the Upper Goulburn catchment that was the subject of the claims could have had ANY impact on Melbourne water. […]

Any suggestion that a theoretical possibility that the pipeline could be used at some undetermined point in the future justifies the focus of these reports on historical impacts on Melbourne water would clearly be nonsensical. The reports stated “Victoria’s Office of the conservation Regulator **has** found VicForests **has** illegally logged on steep slopes in two places **putting** Melbourne's drinking water at risk”. This statement is clearly referring to the past activity as the alleged cause of the risk. As the pipeline has not been used, it is not credible for the ABC to claim that this suggestion is honest. It was clearly misleading, and we submit, deliberately designed to sensationalise these claims and create a hook for a story of interest to a Melbourne or National audience.

Fourthly, the areas affected by the minor regulatory breaches are 0.0002% of the relevant water catchment, that is, so small that there could not possibly be any impact. This is important context that should have been reflected in this report. […]

We therefore submit that you must find that the reporting on [20] April 2021 (**Attachment 1**) contravenes Standards 2.1 and 2.2 [...].

**Lack of impartiality**

VicForests also considers that the reporting on this matter by the ABC clearly breached standards 4.1, 4.4 and 4.5:

4.1 Gather and present news and information with due impartiality.

4.4 Do not misrepresent any perspective.

4.5 Do not unduly favour one perspective over another.

The ABC’s reporting on this issue was not impartial, and the views [raising allegations] were clearly favoured over the advice and views of the relevant Government regulator and VicForests.

[...]

We therefore submit that you must find that the reporting on [20] April 2021 (**Attachment 1**) contravenes Standards 4.1, 4.4 and 4.5.

[...]

**Attachment 1 to the complaint to ABC** [not included inthis report].

**Extracts of complaint to the ACMA dated 16 August 2021:**

Numerous ABC online and radio reports that aired on 20 […] April 2021 about harvesting by VicForests clearly breached the ABC’s Editorial Standards, particularly standards 2.1, 2.2, 4.1, 4.2 and 4.3. These reports materially misrepresented facts, were misleading […].

In short, the ABC broadcast a series of stories claiming that harvesting by VicForests was putting Melbourne’s water supply at risk. These statements were [inaccurate] and [...] misrepresented the facts including:

* the position of the regulator was that only 2 small breaches had been detected […] and due to the nature of the breaches there was no risk of environmental harm (not risk to drinking water as claimed)
* these stories were based on claims related to harvesting in the Upper Goulburn Valley. No water sources from the Upper Goulburn Valley feed into the Melbourne water catchment therefore there was no justification for the primary thrust of these reports.

[…]

Attachment B

Extracts of broadcaster’s response and submissions

***Extracts of ABC response to the complainant dated 21 July 2021:***

[...]

Key considerations for Audience and Consumer Affairs in investigating your concerns have been the efforts made by the content areas to ensure that material facts were presented in context; and whether news and information was presented with due impartiality in the given circumstances. As explained in the principles accompanying both the accuracy and impartiality editorial standards, this requires consideration of a number of relevant factors including the type, subject and nature of the content and the likely audience expectations of the content. The principles for impartiality also emphasise the importance of considering the degree to which the matter is contentious. The ABC’s impartiality guidance note explains that a story should be regarded as contentious if it is subject to obvious public debate; polarised views and evidence of high emotion; and contradictory facts. Audience and Consumer Affairs observe that the Victorian logging industry is a matter of contention and therefore the ABC audience would have high expectations that coverage of this issue would be accurate and impartial.

Audience and Consumer Affairs have concluded that coverage by the ABC’s News division of [the ecologist’s] research and the OCR findings was in keeping with the ABC’s editorial standards. [...] Audience and Consumer Affairs note that [the ecologist’s] research and the OCR’s findings are highly newsworthy. We observe that [the ABC] has repeatedly requested interviews with VicForests and the OCR, which were declined, and that the statements provided by VicForests and the OCR have featured prominently in [ABC] reporting.

[...]

**ABC RN, News update, 20 April at 07:06**

**Accuracy 2.1, 2.2**

Your complaint highlights two factual statements of concern, repeated across the ABC’s coverage, which are illustrated by this line from the ABC’s reporter [...] (our emphasis): *Victoria’s Office of the Conservation Regulator has found VicForests has* ***illegally logged*** *on steep slopes in two places* ***putting Melbourne’s drinking water at risk****.*

Audience and Consumer Affairs are satisfied that it was accurate to state that the OCR found VicForests had “*illegally logged*” in two areas. We have sighted correspondence from the OCR in relation to these breaches which concludes that “VicForests did not comply with legal requirement, being MSP 3.5.1.1.”. We understand that the “MSP” are the ‘management standards and procedures’ which are incorporated into the Code of Practice for Timber Production (2014) and as clearly explained on the Victorian government website (our emphasis):

*What is the Code of Practice?*

*The code outlines the environmental standards for planning and conducting commercial timber harvesting operations. Important values including soils, water, biodiversity, recreation, cultural heritage and visual amenity are protected under the code.*

***It’s a legal requirement for VicForests to comply with the code.***

We are further satisfied that it was accurate to state that the OCR concluded VicForests had put *“Melbourne’s drinking water at risk*”. We have sighted correspondence from the OCR in relation to these breaches which states: ‘*[t]he harvesting of slopes greater than 30 degrees in water supply protection areas results in an increased risk to waterway health and is not acceptable to the Conservation Regulator*’.

With regard to your assertion that the Upper Goulburn catchment is not within Melbourne’s catchment area, ABC News have advised: “*The North South Pipeline was built specifically to connect the Upper Goulburn Valley to Melbourne’s water supply. It can, when running at full capacity, carry a significant proportion of Melbourne’s delivery capacity. Although only used at times of need, when it is used, the quality of the water from the Goulburn catchment will obviously be critically important to Melbourne*”. This information is confirmed by Melbourne Water’s website, which explains that the pipeline carries water from the Goulburn River to Melbourne’s Sugarloaf Reservoir, where it is mixed and fed to smaller reservoirs supplying central, northern and western Melbourne. Your complaint also states that “The North-South Pipeline has never been used, and it is public Victorian Government Policy that it will never be used”. Audience and Consumer Affairs note that the pipeline was indeed used in 2010; we have been unable to substantiate the statement that it is government policy the North South Pipeline will *never* be used.

Audience and Consumer Affairs are satisfied that the report was in keeping with the ABC’s accuracy standards: reasonable efforts were made to ensure that the material facts were accurate and presented in context; and factual content was not presented in a way that would materially mislead listeners.

***Impartiality 4.1, 4.4, 4.5***

Audience and Consumer Affairs note [the reporter] sought interviews with both VicForests and the OCR for this story which were declined, and statements were provided instead. This very brief 45 second news report included comments from both VicForests and the OCR in response to the claims made by [the ecologist] :

*[the reporter]: “The regulator said the claim of widespread breaches could not be substantiated. Vicforests denies the claim and says it has measures in place to protect water.*

For the reasons explained above in the accuracy finding, we are satisfied that the report did not misrepresent the position of the OCR, and we note that this story included the principal relevant viewpoints on the matters to hand. Audience and Consumer Affairs are satisfied that the report was in keeping with the ABC’s standards for impartiality: the broadcast was presented with *due* impartiality and no perspective was *unduly* favoured.

**ABC Radio Melbourne Mornings [...], 20 April at 09:11, 09:23**

***Accuracy 2.1, 2.2***

For the reasons set out above, Audience and Consumer Affairs are satisfied that it was in keeping with the ABC’s accuracy standards for [the] host [...] to explain to listeners that: “*the Office of the Conservation Regulator found that VicForests has illegally logged on steep slopes … in two places and that’s put Melbourne’s drinking water at risk*”, and later “*according to Victoria’s Office of the Conservation Regulator finding that VicForests … that it’s illegally logged on steep slopes in two places and that has put Melbourne’s drinking water at risk*”.

***Impartiality 4.1, 4.4, 4.5***

As clearly stated in the program, *Mornings* sought an interview with VicForests for this story which was declined, and a statement was provided instead. This statement was referred to briefly at approximately 09:12 in the forward announcement for the interview with [the ecologist]: “*Now, I’ve got a statement from VicForests, VicForests actually manages our so-called sustainable logging on behalf of the government and they’re rejecting that (the finding of illegal logging)*”. Just prior to the interview with [the ecologist] the VicForests statement was again referred to: “*I’ve got a response here from VicForests and they absolutely deny that (the finding of two instances of illegal logging and putting Melbourne’s water catchment at risk)*”.

During the interview with [the ecologist], the VicForests statement was provided in more detail: “*This is what a spokesperson from VicForests has said in response and sent to us: “The overall proposition raised by the report that there is systemic and widespread breaching of slope prescriptions could not be substantiated. The allegation was found to be based on modelled data and insufficient in-field sampling to be able to make a valid inference*.”

In addition, *Mornings* sourced the OCR statement issued to ABC News in response to [the ecologist’s] allegations of widespread and systemic illegal logging, and this was provided to listeners:

*“...according to a statement attributable to [the] Chief Conservation Regulator says: “The Conservation Regulator found that the report’s allegations…suggesting that there is systemic and widespread breaching of slope prescriptions could not be substantiated…”.*

The complaint suggests that the highlighted words in this statement […] unduly favour[s] the view of [the ecologist]: “*Now, I’ve got a statement from VicForests, VicForests actually manages our* ***so-called*** *sustainable logging on behalf of the government and they’re rejecting that.*  ***But****, ah, you’ve heard the finding in the conclusion in the news from the Office of the Conservation Regulator, let’s talk in just a moment to [the ecologist]* …”. Audience and Consumer Affairs are satisfied that the use of “so-called” was in keeping with the Macquarie dictionary definition “*called or designated thus*”: it is accurate and fair to describe VicForests as the designated manager of sustainable logging on behalf of the state government. The use of the word “but” simply reflects the fact that VicForests does not agree that the OCR found two instances of illegal logging; again, this is an accurate and fair use of language.

The complaint also claims that [the presenter] unduly favoured [the ecologist’s]’s views in this statement: “*Well, it looks to me sitting here with all of their statements surrounding me that between the response from VicForests pretty much saying nothing to see here and the response of the Conservation Regulators saying yeah, we had a word to them and said, you know, make sure, please make sure you’re doing the right thing, that nothing really is going to change?*”. It is open to ABC presenters to put forward evidence-based conclusions, based on their analysis of the information available. In this case, Audience and Consumer Affairs are satisfied that the conclusion of the presenter was reasonable: no action was taken by the OCR in light of the breaches found by [the ecologist], and [the] allegations of widespread illegal logging have been rejected by both the OCR and VicForests. No recommendations have been made by the OCR and no concessions made by VicForests: it was reasonable to state that “nothing really is going to change”. Importantly, listeners were provided with the perspectives of the OCR, VicForests and [the ecologist] and were therefore able to draw their own conclusions.

Audience and Consumer Affairs note that the program sought an interview with VicForests which, as explained to listeners, was declined, and the statement provided by VicForests was prominently featured in the broadcast. The program sought and presented a statement from the OCR and we are satisfied that the position of the OCR was not misrepresented. We further note that the interview was suitably rigorous, and appropriately tested [the ecologist]’s claims. Audience and Consumer Affairs are satisfied that the report was in keeping with the ABC’s standards for impartiality: the broadcast was presented with *due* impartiality and no perspective was *unduly* favoured or misrepresented.

**ABC NewsRadio Breakfast 20 April 8.10**

***Accuracy 2.1, 2.2***

For the reasons set out above, Audience and Consumer Affairs are satisfied that it was in keeping with the ABC’s accuracy standards for [the host] to explain to listeners that: “*Victoria’s state-owned logging company VicForests has put Melbourne’s drinking water at risk by illegally logging on steep slopes in an important water catchment. That’s according to Victoria’s regulator* …”.

***Impartiality 4.1, 4.4, 4.5***

During the interview with [the ecologist], [the presenter] provided the appropriate context by explaining the broader findings of the OCR: “*Important to note that the Conservation Regulator says allegations suggesting that there’s widespread breaching of these slope prescriptions could not be substantiated*…”. It is also pertinent to note that ABC NewsRadio is a rolling news service and earlier that morning [the] reporter [...] had reported: “*The regulator said the claim of widespread breaches could not be substantiated. VicForests denies the claim and says it has measures in place to protect water*.”

Audience and Consumer Affairs are satisfied that the report was in keeping with the ABC’s standards for impartiality: the coverage was presented with *due* impartiality and no perspective was *unduly* favoured or misrepresented.

**ABC News 24, 20 April 9:40**

***Accuracy 2.1, 2.2***

For the reasons set out above, Audience and Consumer Affairs are satisfied that it was in keeping with the ABC’s accuracy standards for [the host] to explain to viewers that: “*Victoria’s conservation regulator has declined to take action against VicForests for illegally logging in water catchments. The Chief Conservation Regulator says the claims of widespread breaches cannot be substantiated after finding breaches in just two areas* …”. As established, the OCR identified logging breaches in two locations, but did not take action against VicForests. The statement was properly contextualised with reference to the OCR’s the broader finding that evidence of widespread breaches were not substantiated.

***Impartiality 4.1, 4.4, 4.5***

During the interview with [the ecologist], [the presenter] provided the appropriate context by explaining the broader findings of the OCR which did not support’s allegation of widespread illegal logging. This was a robust and rigorous interview in which [the presenter] repeatedly questioned [the ecologist’s] research in light of the regulator’s findings.

Audience and Consumer Affairs are satisfied that the report was in keeping with the ABC’s standards for impartiality: the coverage was presented with due impartiality and no perspective was *unduly* favoured or misrepresented.

**ABC Radio Melbourne, 20 April, News update 10:00**

***Accuracy 2.1, 2.2***

For the reasons set out above, Audience and Consumer Affairs are satisfied that it was in keeping with the ABC’s accuracy standards for the presenter to introduce this brief news item by explaining: *“Victoria’s conservation regulator has declined to take action against VicForests for illegally logging in water catchments*. As established, the OCR identified logging breaches in two locations, but did not take action against VicForests.

***Impartiality 4.1, 4.4, 4.5***

The introduction was properly contextualised with comments from [the reporter] who explained: “The regulator said the claim of widespread breaches could not be substantiated. Vicforests denies the claim and says it has measures in place to protect water.”

Audience and Consumer Affairs are satisfied that the reporting was in keeping with the ABC’s standards for impartiality: the coverage was presented with due impartiality and no perspective was unduly favoured or misrepresented.

***Documents submitted by the ABC to the ACMA on 16 November 2021:***

* OCR signed investigation letter to VicForests dated 23 April 2020 [*not included as an attachment to this investigation report*]
* OCR published report: *Regulating timber harvesting on steep slopes* [*not included in this investigation report but publicly available here:* [*Timber harvesting regulation | Victorian Government (www.vic.gov.au)*](https://www.vic.gov.au/timber-harvesting)]
* OCR ‘official statement’ sent to the ABC by email dated 19 April 2021 [*not included as an attachment to this investigation report*]
* A copy of [the ecologist’s] research paper [*not included in this investigation report*]

***Extracts of ABC submission to the ACMA dated 25 July 2022:***

I refer to your email [...] providing the ACMA’s preliminary view that phrases included in three items broadcast on 20 April 2021 - a news story broadcast at 7.00am on RN and introductions to interviews presented on ABC Radio Melbourne *Mornings* and ABC News Radio *Breakfast -* breached standards 2.1, 2.2 and 4.4 of the ABC Code of Practice. The ACMA finds that the 7.00am RN news story and the ABC Radio Melbourne *Mornings* interview did not breach standards 4.1 or 4.5, and finds no breaches in relation to an interview presented on the ABC News Channel’s *ABC News Mornings* and a news update presented on ABC Radio Melbourne at 10.00am.

The preliminary breach findings are based on these phrases in the relevant content:

* News story, RN: *‘Victoria's Office of the Conservation Regulator has found VicForests has illegally logged on steep slopes in two places, putting Melbourne's drinking water at risk.’*
* Introduction to interview, *Breakfast,* ABC NewsRadio: ‘*Victoria’s state-owned logging company VicForests has put Melbourne’s drinking supply at risk by illegally logging on steep slopes in an important water catchment area, that’s according to Victoria’s regulator …’*
* Introduction to interview, *Mornings,* ABC Radio Melbourne: ‘*As you've been hearing in the news, this is according to Victoria's Office of the Conservation Regulator finding that VicForests … illegally logged on steep slopes in two places and that has put Melbourne's drinking water at risk.*’

**Standard 2.1**

The preliminary finding includes the following reasoning in relation to standard 2.1:

[...]

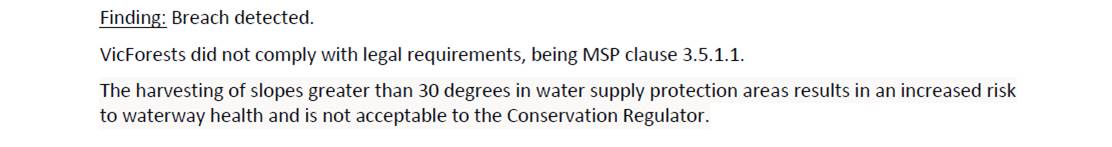
ABC response

The preliminary finding characterises correspondence from the OCR as including only *‘general information about possible risks’* of logging on steep slopes, and as providing insufficient evidence for reporting that the ‘*two breaches it had identified had posed a risk to Melbourne’s drinking water*’. The ACMA considers that it was clear that the OCR ‘*had not made a finding of environmental harm or impacts to water supply as a result of the breaches*’.

It is important to note that none of the items covered by the preliminary breach finding asserted that the OCR had *‘made a finding of environmental harm or impacts to water supply as a result of the breaches’.* Each of the items described the OCR as having found that VicForests’ logged illegally on steep slopes *‘putting Melbourne’s drinking water at risk’.*

* What was the OCR’s finding?

The OCR’s 8 October 2020 correspondence to [the ecologist] is titled ‘*Investigation Outcome’* and includes the following under the heading *‘Finding’*:



This is a finding that VicForests illegally logged on steep slopes in a water supply protection area; that such harvesting is unacceptable to the OCR; and that such harvesting *‘results in an increased risk to waterway health’.*

Maintaining waterway health is essential to ensure the quality of drinking water. The Victorian government [states](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.wannonwater.com.au%2Fmedia%2F52246%2Fprotect-our-waters-final-web-version-pdf.pdf&data=05%7C01%7CDonna.Benson%40acma.gov.au%7Ca8b2f4e4ac4744584f3f08da7feeefde%7C0dac7f39d20c4e718af371ee7e268a2b%7C0%7C0%7C637962961446241139%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=4or9XHoJpebIWMTAiAhJpCzBqfQWVrLIKGbyPAaSSk4%3D&reserved=0):

*The quality of the drinking water that communities receive from catchments is dependent on the condition of the land and the management practices used on that land. What happens in one part of a catchment is likely to have an effect elsewhere.*

*Poor practices affect river water quality, which, in turn, can affect the health of the environment and put stress on the drinking water treatment process. Without proper consideration and planning, silt and many kinds of waste can end up in our waterways, which can have a negative impact* *on human health.*

*To avoid these potential risks to public health, development and use of land within drinking water catchment areas should be managed to optimise the quality of water collected from the catchment.*

*Increased contaminant loads in source waters can impair the effectiveness of water treatment processes. Some contaminants cannot be removed from water by treatment, so preventing water contamination is best.*

The steep slopes found to have been illegally logged by VicForests are located in the Upper Goulburn catchment, a declared special water supply catchment area. This [designation](https://vro.agriculture.vic.gov.au/dpi/vro/vrosite.nsf/pages/landuse-water-supply-catchments) recognises the Upper Goulburn catchment’s *‘significant value as a source of water supply, both for stock and domestic use’* and *‘highlights to the community, land managers and planners, the importance of the catchment for water supply purposes’.*

Water collected in the Upper Goulburn catchment services communities in regional Victoria, providing water for human consumption and irrigation. The Upper Goulburn catchment also connects to Melbourne’s water catchment area and supplies drinking water to the capital in times of critical need (<https://www.water.vic.gov.au/__data/assets/pdf_file/0034/58849/Water-Plan-summary.pdf>).

The regulator found that VicForests’ illegal logging put this particular waterway at increased risk. Given the interconnectedness of catchments, this activity posed a risk to Melbourne’s drinking water. The ABC’s news report and the two introductions accurately conveyed the OCR’s finding and briefly explained to listeners why logging of this nature is illegal.

* What is meant by the expression ‘*at risk’*?

It is important to distinguish between an action putting water quality ‘*at risk*’ and that action causing **actual harm**.

Logging on steep slopes is illegal because it puts water quality **at risk**. The action is considered risky, regardless of whether actual harm is caused.

It is true that the OCR did not find evidence of **actual harm** to the water caused by the illegal logging.

But it is also true – as clearly demonstrated above – that the OCR found the illegal logging put the water **at risk**.

The phrase *‘put at risk’* is commonly used in news coverage to identify areas of *potential* vulnerability and is well understood by audiences.

In assessing the content’s compliance with standard 2.1, the relevant question is whether it was accurate to describe the OCR’s finding that illegal logging had occurred in two places as posing a ‘*risk’* of harm to Melbourne’s drinking water.

Given that:

* the OCR had concluded that logging of the kind engaged in by VicForests results in an increased risk to waterway health;
* the specific waterway affected by the illegal logging is in a declared special water supply catchment area, in recognition of its significant value as a source of water supply;
* the catchment provides drinking water to communities in regional Victoria, and connects to Melbourne’s water catchment area to supply drinking water in times of critical need;

the ABC submits that reasonable efforts were made to ensure that the OCR’s finding was presented accurately and in context.

**Standard 2.2**

The preliminary finding includes the following reasoning in relation to standard 2.2:

[...]

ABC response

For the reasons set out above, the ABC maintains that the OCR’s finding was accurately described.

The ABC further submits that the preliminary finding that standard 2.2 was breached in each of the three broadcasts relies on phrases presented in isolation, without due consideration of the items in their entirety.

The news story presented on RN was very brief, just 43 seconds. In that time, it included the OCR finding; details of [the ecologist’s] peer-reviewed research; and VicForests’ response. [...] These elements provided important qualifying *‘explanatory information’* which ensured that audiences would not be materially misled.

The NewsRadio item was a longer interview which focused primarily on [the ecologist’s] research, as was made clear in the introduction: ‘*Victoria’s state-owned logging company VicForests has put Melbourne’s drinking supply at risk by illegally logging on steep slopes in an important water catchment area, that’s according to Victoria’s regulator,* ***and a new peer-reviewed independent analysis*** *by two [...] scientists, published this month. Now the research suggests the breaches have been widespread and systematic with 75% of logging areas in the catchment subject to illegal logging of this sort. One of the scientists behind the study is [the ecologist] who joins us live now.’* [The ecologist] set out [their] findings, described the importance of this particular catchment to Victoria’s water supply, and explained how logging on steep slopes potentially impacts the quality of the water. [The ecologist] referred to findings of the Victorian government’s auditors which pre-dated [their] research and which had also found *‘exactly the same thing … indicating that there was a problem’.* [The ecologist] was highly critical of the OCR’s conclusions:

*[The presenter]: Important to note that the Conservation Regulator says that allegations suggesting that there’s widespread breaching of these slope prescriptions could not be substantiated. What’s your response to that?*

*[The ecologist]: They only looked at the last couple of years, under their statute of limitations. But the reality is that when you look at the Victorian Government’s own data layers, using slopes from their own data layers, you see that the problem is deep seated and widespread as we’ve done. To verify that we’ve submitted the science to an international peer-reviewed journal for other scientists to look to make sure we’ve got the right answers here, and we do. Even if we had for example a 10% margin of error on this, that would mean that we have say 140 coupes rather than 160 coupes that exceed the slopes, but it may be as high as 180 of 214. So the problem is widespread. The reality is that the Office of the Conservation Regulator didn’t look very hard. If they had looked properly at this issue they would have found the widespread breaches we have found.*

Audiences listening to this interview would not have concluded that the OCR had found a significant risk to Melbourne’s drinking supply which it failed to respond to in a proportionate manner. Rather, audiences would have understood that the OCR was being criticised by a highly credentialled researcher for failing to find the same significant risk [their] work had identified. When the item is considered in its entirety, audiences would not have been materially misled about the OCR’s findings.

The *Mornings* item was similarly a longer interview which focused primarily on [the ecologist’s] research. The focus on [the ecologist’s] research was evident from the introduction: ‘*As you’ve been hearing in the news, this is according to Victoria’s Office of the Conservation Regulator finding that VicForests, which is the state-owned business responsible for the harvest and sale and regrowing of timber from state forests here on behalf of the government, so it’s a government owned enterprise, that it’s illegally logged on steep slopes in two places and that has put Melbourne’s drinking water at risk.*

*I’ve got a response here from VicForests and they absolutely deny that, but [the ecologist] who uncovered the breaches. [The ecologist], good morning.*’ [The ecologist] outlined [their] research and contrasted [their] findings and [...] views of the seriousness of the matter with those of the OCR. The interviewer put contrary views to [the ecologist] directly, referring to statements from both VicForests and the OCR that said that [the ecologist’s] findings of widespread and systemic breaches of slope prescriptions could not be substantiated. [The ecologist] was again critical of the OCR’s findings:

*[The host]: So are you saying that we shouldn’t have faith or belief in the state conservation regulator?*

*[The ecologist]: I’m saying that the conservation regulator should actually do more work to look more closely at what’s going on so …*

*[The host]: So you’re saying the conservation regulator is not doing enough work?*

*[The ecologist]: That’s correct. That’s correct. They only looked back for the last couple of years because in our conversations with them they said that they were limited by their own statute of limitations. But these breaches go back to 2004 and we need to look at the agency responsible for regulating this prior to the development of the OCR which was the Victorian government’s Department of the Environment.*

The interview closed with an assurance that Melbourne’s drinking water was safe:

*[The host]: Alright, well that’s a further conversation. Just finally, when we Victorians, we Melburnians turn on our tap, can we have faith in our water?*

*[The ecologist] : We can, as long as we don’t continue to log steep slopes.*

As with the NewsRadio item, audiences listening to this interview would not have concluded that the OCR had found a significant risk to Melbourne’s drinking supply which it failed to respond to in a proportionate manner. Rather, audiences would have understood that the OCR was being criticised by a highly credentialled researcher for failing to find the same significant risk [their] work had identified. These elements ensured that audiences were not materially misled.

**Standard 4.4**

The preliminary finding includes the following reasoning in relation to standard 4.4:

[...]

Assessing impartiality requires material to be considered in context. As set out above, these three items of content included additional contextualising material which ensured that the OCR’s finding was not misrepresented. It was apparent from each of the broadcasts that the OCR’s perspective was in contrast to the findings of [the ecologist’s] research. Whereas [the ecologist] had concluded that illegal logging was significant and widespread, the OCR had found breaches in only two places. Their respective views of the seriousness of the matter differed accordingly.

While the ABC submits that each of the broadcasts complied with accuracy standards, a finding of inaccuracy in characterisation of a viewpoint does not necessarily amount to a breach of impartiality standards. As no other aspect of the broadcasts points to a lack of impartiality, any unintentional error in the presentation of the OCR’s perspective should not be found to breach this standard.

[...]

Attachment C

**Relevant statements assessed under Accuracy**

**RN news update**(in **bold**):

The reporter: **Victoria's Office of the Conservation Regulator has found VicForests has illegally logged on steep slopes in two places, putting Melbourne's drinking water at risk**. [The ecologist] from [the University], found it’s a widespread problem, and published the results in a peer-reviewed journal.

The ecologist: we found significant evidence of these breaches on 75% of 214 logging coupes in just one catchment alone.

The reporter: The regulator said the claim of widespread breaches couldn’t be substantiated. VicForests denies the claim and says it has measures in place to protect water.

**Mornings interview** (in **bold**):

*The host*: **As you've been hearing in the news, this is according to Victoria's Office of the Conservation Regulator finding that VicForests, which is the state-owned business responsible for the harvest and sale and regrowing of timber from state forests here on behalf of the Government, so it's a Government-owned enterprise, that it's illegally logged on steep slopes in two places and that has put Melbourne's drinking water at risk.**

I’ve got a response here from VicForests and they absolutely deny that [...].

**NewsRadio report** (in **bold**):

*The presenter:*  **Victoria’s state-owned logging company VicForests has put Melbourne’s drinking supply at risk by illegally logging on steep slopes in an important water catchment area, that’s according to Victoria’s regulator**, and a new peer-reviewed independent analysis by 2 [university] scientists, published this month.

Now the research suggests the breaches have been widespread and systematic with 75% of logging areas in the catchment subject to illegal logging of this sort.

**TV news report** (in **bold**):

*The presenter*: Victoria's **conservation regulator has declined to take action against VicForests for illegally logging in water catchments**.

The Chief Conservation Regulator says the claims of widespread breaches cannot be substantiated after finding breaches in just two areas.

**Radio Melbourne news update** (in **bold**):

*The presenter*: **Victoria's conservation regulator has declined to take action against VicForests for illegally logging in water catchments**. [the reporter] reports.

*The reporter*: According to new research, 75% of areas in one catchment supplying Melbourne’s drinking water contained logging banned because it puts that water at risk. [The ecologist] examined compliance with rules banning logging on some steep slopes.

*The ecologist:* These are really widespread, systemic problems throughout VicForests’ logging operations in Victoria.

*The reporter*: The chief conservation regulator said the claim of widespread breaches couldn’t be substantiated after finding breaches in just 2 locations. VicForests says the breaches didn’t harm the environment.

**Attachment D**

Relevant provisions

**ABC Code of Practice 2019**

**2. Accuracy**

**Standards**:

**2.1** Make reasonable efforts to ensure that material facts are accurate and presented in context.

**2.2** Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

**Principles**: The ABC has a statutory duty to ensure that the gathering and presentation of news and information is accurate according to the recognised standards of objective journalism. Credibility depends heavily on factual accuracy. Types of fact-based content include news and analysis of current events, documentaries, factual dramas and lifestyle programs. The ABC requires that reasonable efforts must be made to ensure accuracy in all fact-based content. The ABC gauges those efforts by reference to:

• the type, subject and nature of the content;

• the likely audience expectations of the content;

• the likely impact of reliance by the audience on the accuracy of the content; and

• the circumstances in which the content was made and presented.

The ABC accuracy standard applies to assertions of fact, not to expressions of opinion. An opinion, being a value judgement or conclusion, cannot be found to be accurate or inaccurate in the way facts can. The accuracy standard requires that opinions be conveyed accurately, in the sense that quotes should be accurate, and any editing should not distort the meaning of the opinion expressed.

The efforts reasonably required to ensure accuracy will depend on the circumstances. Sources with relevant expertise may be relied on more heavily than those without. Eyewitness testimony usually carries more weight than second-hand accounts. The passage of time or the inaccessibility of locations or sources can affect the standard of verification reasonably required.

The ABC should make reasonable efforts, appropriate in the context, to signal to audiences gradations in accuracy, for example by querying interviewees, qualifying bald assertions, supplementing the partly right and correcting the plainly wrong.

**4. Impartiality and diversity of perspectives**

**Standards:**

**4.1** Gather and present news and information with due impartiality.

**4.2** Present a diversity of perspectives so that, over time, no significant strand of thought or belief within the community is knowingly excluded or disproportionately represented.

**4.3** Do not state or imply that any perspective is the editorial opinion of the ABC. The ABC takes no editorial stance other than its commitment to fundamental democratic principles including the rule of law, freedom of speech and religion, parliamentary democracy and equality of opportunity.

**4.4** Do not misrepresent any perspective.

**4.5** Do not unduly favour one perspective over another.

**Principles**: The ABC has a statutory duty to ensure that the gathering and presentation of news and information is impartial according to the recognised standards of objective journalism.

Aiming to equip audiences to make up their own minds is consistent with the public service character of the ABC. A democratic society depends on diverse sources of reliable information and contending opinions. A broadcaster operating under statute with public funds is legitimately expected to contribute in ways that may differ from commercial media, which are free to be partial to private interests.

Judgements about whether impartiality was achieved in any given circumstances can vary among individuals according to their personal and subjective view of any given matter of contention.

Acknowledging this fact of life does not change the ABC’s obligation to apply its impartiality standard as objectively as possible. In doing so, the ABC is guided by these hallmarks of impartiality:

• a balance that follows the weight of evidence;

• fair treatment;

• open-mindedness; and

• opportunities over time for principal relevant perspectives on matters of contention to be expressed.

The ABC aims to present, over time, content that addresses a broad range of subjects from a diversity of perspectives reflecting a diversity of experiences, presented in a diversity of ways from a diversity of sources, including content created by ABC staff, generated by audiences and commissioned or acquired from external content-makers.

Impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented.

Assessing the impartiality due in given circumstances requires consideration in context of all relevant factors including:

• the type, subject and nature of the content;

• the circumstances in which the content is made and presented;

• the likely audience expectations of the content;

• the degree to which the matter to which the content relates is contentious;

• the range of principal relevant perspectives on the matter of contention; and

• the timeframe within which it would be appropriate for the ABC to provide opportunities for the principal relevant perspectives to be expressed, having regard to the public importance of the matter of contention and the extent to which it is the subject of current debate.

The ACMA’s approach to assessing content

When assessing content, the ACMA considers the meaning conveyed by the material, including the natural, ordinary meaning of the language, context, tenor, tone, images and any inferences that may be drawn. This is assessed according to the understanding of an ‘ordinary reasonable’ viewer or listener.

Australian courts have considered an ‘ordinary reasonable’ viewer or listener to be:

A person of fair average intelligence, who is neither perverse, nor morbid or suspicious of mind, nor avid for scandal. That person does not live in an ivory tower but can and does read between the lines in the light of that person’s general knowledge and experience of worldly affairs.[[6]](#footnote-7)

Once the ACMA has ascertained the meaning of the material that was broadcast, it then assesses compliance with the Code.

ACMA considerations for determining factual content:

* In practice, distinguishing between factual material and other material, such as opinion, can be a matter of fine judgement.
* The ACMA will have regard to all contextual indications (including subject, language, tenor and tone and inferences that may be drawn) in making its assessment.
* The ACMA will first look to the natural and ordinary meaning of the language used.
* Factual material will usually be specific, unequivocal and capable of independent verification.
* The use of language such as ‘it seems to me’ or ‘we consider/think/believe’ will tend to indicate that the content is contestable and presented as an expression of opinion or personal judgement. However, a common-sense judgement is required and the form of words introducing the relevant content is not conclusive.
* Statements in the nature of predictions as to future events will rarely be characterised as factual material.
* Statements containing argumentative and exaggerated language or hyperbole will usually indicate a subjective opinion and will rarely be characterised as factual material.
* The identity of the person making a statement (whether as interviewer or interviewee) will often be relevant but not determinative of whether a statement is factual material.
* Where it is clear in the broadcast that an interviewee’s account is subjective and contestable, and it is not endorsed or corroborated, their allegations will not be considered as factual assertions.
* Where an interviewee’s stance is separately asserted or reinforced by the reporter or presenter, or proof of an allegation is offered so that it becomes the foundation on which a program or a critical element of the program is built, it may be considered a factual assertion.[[7]](#footnote-8)
* Sources with expertise may be relied on more heavily than those without, in determining whether material is factual, but this will depend on:
  + whether the statements are merely corroborative of ‘lay’ accounts given by other interviewees
  + the qualifications of the expert
  + whether their statements are described as opinion
  + whether their statements concern past or future events[[8]](#footnote-9)
  + whether they are simply comments made on another person’s account of events or a separate assertion about matters within their expertise.

1. <https://www.abc.net.au/news/corrections/2021-07-21/vicforests/13463940>, accessed 19 November 2021. [↑](#footnote-ref-2)
2. The [*Sustainable Forests (Timber) Act 2004*](http://classic.austlii.edu.au/au/legis/vic/consol_act/sfa2004289/)*.* [↑](#footnote-ref-3)
3. The [*Sustainable Forests (Timber) Act 2004*](http://classic.austlii.edu.au/au/legis/vic/consol_act/sfa2004289/). [↑](#footnote-ref-4)
4. The OCR report: *Regulating timber harvesting on steep slopes*, accessed 30 November 2021. [↑](#footnote-ref-5)
5. <https://www.macquariedictionary.com.au/features/word/search/?search_word_type=Dictionary&word=illegal>, accessed 30 November 2021. [↑](#footnote-ref-6)
6. *Amalgamated Television Services Pty Limited v Marsden* (1998) 43 NSWLR 158 at pp 164–167. [↑](#footnote-ref-7)
7. See Investigation 2712 (*Today Tonight* broadcast on Seven on 25 July 2011); Channel Seven Adelaide Pty Limited v Australian Communications and Media Authority [2014] *FCA* 667. [↑](#footnote-ref-8)
8. See Investigation 3066 (*Four Corners* broadcast on ABC on 23 July 2012) and Investigation 2961 (*The Alan Jones Breakfast Show* broadcast on 2GB on 19 October 2012). [↑](#footnote-ref-9)