



Cộng Đồng Người Việt Tự Do Úc Châu Vietnamese Community in Australia

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To
The Chair (Mr. R. Baldwin),
Deputy Chair (Mr. M. Hatton),
And all Members of the
House Standing Committee on Communications, Information Technology
and the Arts

Dear Committee Chair, Deputy Chair, and Members

SUPPLEMENTARY SUBMISSION **Review of the Special Broadcasting Service Annual Report 2002-2003**

We wish to provide this supplementary submission and seek the
Committee's consideration of it.

D'. CHANGE CODES OF PRACTICE TO IMPROVE WORLDWATCH

Some SBS TV managers have argued that the following section in SBS' Codes allows it to include in WorldWatch news programs that otherwise would have failed the Codes' other requirements of independence, impartiality, balance, accuracy, right of reply, etc.:

2.4.3 Overseas Television News and Current Affairs Programs

SBS Television broadcasts, substantially unedited, news and current affairs programs from other countries. Much of the material is in non-English languages and un-subtitled. In selecting such programming, SBS endeavours to ensure a level of quality which is appropriate to the SBS schedule. These programs are drawn from a variety of overseas sources - Government, commercial and public - and are often produced and interpreted from particular editorial perspectives. Prior to broadcast, SBS will clearly identify the source of the programs so that audiences can exercise their own judgement about how issues and information are presented.

It seems ironic and unacceptable that the sentence which SBS TV appears to rely on, "In selecting such programming, SBS endeavours to ensure a level of quality which is appropriate to the SBS schedule", indicates that it regards that the quality which is appropriate to the WorldWatch schedule is low indeed.

During 2000 - 2003, several times we put to SBS Management that it would be against SBS' Codes of Practice if the Communist Party of Vietnam's news programs were used in WorldWatch, for the following reasons, which apparently were all ignored:

- the Communist Party of Vietnam openly stated that its purpose in sending television and radio programs abroad is propaganda. We handed to SBS Managers a copy of Policy 210/1999 signed by communist Vietnam's Prime Minister, which stated that the purpose was, in its words, "propaganda" ("tuyên truyền")
- Lack of independence, because the CPV openly owns and controls all media in Vietnam
- Lack of impartiality, because all these media serve the CPV, and openly acknowledge so
- Lack of balance, because people voicing dissenting views are usually silenced, they have never been given nor likely given a voice on the CPV's media

Despite the interpretation by some SBS Managers, we believe the above section should not and cannot be interpreted to over-rule the other requirements in the Codes:

- It should not, because as a public broadcaster, SBS TV must maintain high and consistent standards in news and current affairs. Consistency means no double standards; high standards for some viewer groups (eg. English and some language groups) and arbitrarily low standards for others.
- It cannot, primarily because the above section is *ultra vires*. Section 10(1)(c) of the SBS Act imposes the requirements of accuracy and balance by asking the SBS Board "to ensure, by means of the SBS's programming policies, that the gathering and presentation by the SBS of news and information is accurate and is balanced". If the Codes' drafters intended to contravene the Act, then they have exceeded their authority.

However, given that some SBS TV managers have made the above interpretation, and may again in future, the question now is how to avoid a repeat of what happened to our community.



- One option is to do nothing. If a similar situation occurs, the relevant viewer population could protest as our community did. They may succeed, or they may not. However, even if they eventually succeed, we think other communities should be spared the huge anguish that ours had to suffer.

With the advent of digital television and its increase in channel capacity, this increases pressures on Management to fill capacity. Therefore, the likelihood of similar situations occurring is increased.

- The second option is to rely on the Board's Decision on 5 December 2003, which required Management in future to look at all available news programs in that language, not just those in the home country, and to take into account the majority opinion of the viewer population.

This second option is better than the first, because the combination of a larger pool of assessed programs and the taking account of viewer majority opinion, reduces the likelihood. However, this option could still be improved, because:

- The Board could always revise or reverse its 5 December decision, and
 - While the viewer population's majority view may, in some rare cases, accept a low-quality program, this situation would be both undesirable from a public broadcasting point of view and, importantly, unstable. Unstable, because given that the above section is *ultra vires*, as we contend, even a small minority of that population could mount a successful challenge.
- The third option, which we suggest to be the best, is to modify the Codes to ensure that it cannot in future be interpreted the way it was. This could be done by one or some of these methods, such as:
 - Including a section near the top of the Codes, stating that nothing in the Codes allows it to be interpreted to contravene the SBS Act,
 - Removing, rewording, or adding a sentence to the above section, to state clearly that it cannot be interpreted to contravene or downgrade other requirements in the Codes.

If this option is accepted, then the question is whether it applies retrospectively and, if so, whether some existing WorldWatch programs may be affected.

Our intention is not for retrospectivity because, as already stated, our motivation is to prevent other communities in future having to endure the anguish we suffered. However, we discuss below the implications if retrospectivity is the outcome:

- One implication is that SBS TV will request some program producers to improve the journalistic quality of their programs. This can only benefit SBS, its viewers, and Australian television in general.
- Another possible implication is the discontinuation or modification of some existing programs. However, this may not be as painful as SBS may contend. From anecdotal evidence, we believe that some existing low-quality programs have very few viewers. That they continue to exist until now does not necessarily mean that they are popular, because presently SBS does not have the policy of taking account of ratings in whether to keep a WorldWatch program.

Finally, we caution against the possibility of the "two wrongs make a right" argument:

- The argument would go like this: if a language program is bad but leans on way (eg. pro- an overseas regime), then balance it with another bad program in that language, which is anti- that regime, and it will be fine.

Given that digital transmission gives increased channel capacity, this situation could actually arise.

- We believe two wrongs do not make a right, because then the Codes would still be *ultra vires*, viewers would still not be best served, and SBS TV would still not maintain high and consistent standards.

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While the Committee does not have the power to direct SBS, we hope that by making recommendations to the Minister, reporting to the Parliament, and inviting SBS Management to give attention to matters in our main submission and this supplementary one, it may assist Management in their desire to continually make SBS TV better.

Thank you for considering our submission.

Sincerely

Trung Doan
Federal President