

Investigation Report No. 2681

File No.	ACMA2011/1581
Broadcaster	Australian Broadcasting Corporation
Station	2RN Sydney
Type of Service	National Broadcaster
Name of Program	<i>Background Briefing – The Lord Monckton Roadshow</i>
Date of Broadcast	17/07/11 ¹
Relevant Code	Standards 2.1, 2.2 and 4.1 of the <i>ABC Code of Practice 2011</i>

Investigation conclusion

In relation to the broadcast of *Background Briefing – The Lord Monckton Roadshow* on 17 July 2011, the ABC:

- did not breach Standards 2.1 and 2.2 of the *ABC Code of Practice 2011*; and
- did not breach Standards 4.1 of the *ABC Code of Practice 2011*.

¹ Program repeat broadcast on 19 July 2011

The complaint

On 8 September 2011, the Australian Communications and Media Authority (the ACMA) received a complaint concerning the program, *Background Briefing - The Lord Monckton Roadshow* broadcast on 17 July 2011 on radio station 2RN – ABC Radio National.

The complainant alleged that the broadcast made inaccurate allegations relating to Lord Monckton and other climate change sceptics; and 'lacked balance and objectivity'.

The complainant was not satisfied with the response received from the ABC and referred the matter to the ACMA for consideration.²

The complaint; the ABC's response; and the complainant's referral to the ACMA, are set out at Attachment A.

The complaint has been investigated in accordance with standards 2.1 (factual accuracy), 2.2 (misleading factual content), 4.1 (impartial presentation of news and information) of the *ABC Code of Practice 2011* (the Code).

The program

Background Briefing is a 1 hour current affairs program broadcast on Sundays at 8 am on ABC Radio National (2RN). The program is described on the station website as follows:³

Radio National's agenda-setting current affairs radio documentary program. It varies from week to week in style and content, sometimes doing straight investigative journalism, sometimes exploring important ideas or social issues in on-the-road documentary style. You will find profiles of politicians, analysis of behind-the-scenes issues that shape society, and sometimes an exploration of an idea – or perhaps a murder. Many *Background Briefing* program makers are senior journalists, several of whom have won major awards. Many others come through the unit to make just one or two programs.

The Lord Monckton Roadshow broadcast on 17 July reported on the Australian tour of well-known climate change sceptic Lord Monckton between 4 and 22 July 2011,⁴ in the wake of the Australian Federal Government's announcement of details of the proposed carbon tax. The broadcast was reported by ABC reporter Wendy Carlisle, and largely dealt with the debating tactics of Lord Monckton in delivering a series of talks on climate change issues including an address to an anti carbon tax rally. The station website contains the following description:

The Scottish peer Lord Monckton has been raising hell against the carbon tax in barnstorming rallies and public meetings around the country. But just who is Lord Monckton and who are the forces behind him? Chief amongst them a mysterious group called the Galileo Movement and mining magnate and now media player Gina Rinehart.
Reporter Wendy Carlisle.

² Section 151 of the *Broadcasting Services Act 1992* set out the ACMA's jurisdiction in relation to complaints made under ABC codes of practice.

³ <http://www.abc.net.au/radionational/programs/backgroundbriefing/about/>

⁴ <http://www.nocarbondtax.com.au/2011/06/lord-monckton-2011-tour-and-rally-dates/>

The broadcast included the viewpoints from the following speakers:

- Lord Christopher Monckton – British politician and climate change sceptic.⁵
- Mr Case Smit – Galileo Movement co-founder,⁶ introduced in the program as ‘the Noosa retiree who organised the first [Lord Monckton Australian] tour’.
- Professor Naomi Oreskes – introduced in the program as a ‘former exploration geologist with Western Mining Corporation’.
- Mr Alan Jones [Archival] – 2GB Radio talkback presenter.
- Ms Joanne Nova – Australian science presenter, writer, speaker, and author of *The Skeptic’s Handbook*.⁷
- Mr Malcolm Roberts – Engineer - Introduces Lord Monckton at the rally.⁸
- Mr David Archibald – Australian based scientist and climate change sceptic.⁹
- Professor Timothy Ball [archival in interview with Alan Jones] – Climate scientist¹⁰
- Mr Wes Allen – introduced in the program as a ‘GP from the Tweed Shire’ and ‘climate change sceptic’ referred to the ABC for interview by a representative of the Galileo movement.
- Ms Wendy Carlisle – ABC Journalist.
- Comments from the crowd at the anti carbon tax rally

A full transcript of the 50 minute broadcast can be found at:

<http://www.abc.net.au/radionational/programs/backgroundbriefing/the-lord-monckton-roadshow/2923400>, extracts of which are referred to in the report where relevant.

Assessment

The assessment is based on:

- Audio recording of the broadcast of 17 July 2011 provided by the ABC;
- Submissions provided by the ABC and the complainant;
- Article entitled *Observation of mortality associated with extended open-water swimming by polar bears in the Alaskan Beaufort Sea* – Charles Monnett – Jeffrey S. Gleason - Provided to the ACMA by the Complainant on 6 March 2012; and

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http://en.wikipedia.org/wiki/Christopher_Monckton,_3rd_Viscount_Monckton_of_Brenchley#Climate_change

⁶ http://www.galileomovement.com.au/who_we_are.php

⁷ <http://joannenova.com.au/about/>

⁸ <http://www.minemanagers.com.au/site/index.cfm?display=179803>

⁹ http://www.auscsc.org.au/about_us.html

¹⁰ http://www.google.com.au/#sclient=psy-ab&hl=en&site=&source=hp&q=professor+timothy+ball&og=professor+timothy+ball&aq=f&aql=g4&aql=&gs_sm=3&gs_upl=584156321015742137119121010116841414212-1.0.6.211210&gs_l=hp.3..014.584156321015742137119121010116841414212-110j6j211210.&pbx=1&bav=on.2.or.r_gc.r_pw..cf.osb&fp=6a37e8274e64d7de&biw=1680&bih=881

ACMA Investigation Report – *Background Briefing* broadcast by 2RN Sydney on 17 July 2011

- The publication *IPCC Climate Change 2007: The Physical Science Basis* – Chapter 5 page 409 (available at <http://www.abc.net.au/radionational/programs/backgroundbriefing/the-lord-monckton-roadshow/2923400>).

Other sources consulted are identified where relevant.

'Ordinary, reasonable' listener test

In assessing content against the Code, the ACMA considers the meaning conveyed by the relevant material. This is assessed according to the understanding of an 'ordinary, reasonable' listener.

Australian Courts have considered an 'ordinary, reasonable' reader (or listener or viewer) 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 affairs¹¹.

The ACMA considers the natural, ordinary meaning of the language, context, tenor, tone, inferences that may be drawn, and in the case of factual material, relevant omissions (if any).

Once this test has been applied to ascertain the meaning of the broadcast material, it is for the ACMA to determine whether there has been a breach of the Code.

Issue 1: Accuracy

Relevant provision

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.

ABC submission

In addition to the correspondence between the ABC and the complainant, the ABC made further submissions received by the ACMA on 14 November 2011. These are set out at [Attachment B](#).

¹¹ *Amalgamated Television Services Pty Limited v Marsden* (1998) 43 NSWLR 158 at pp 164–167.

Finding

The ABC did not breach standards 2.1 and 2.2 of the Code.

Reasons

In determining whether or not a statement or material complained of was compliant with the ABC's obligations under Standards 2.1 and 2.2 of the Code, the ACMA generally has regard to the considerations set out at [Attachment C](#).

The broadcast was about Lord Monckton's tour of Australia in 2011 and the key focus of it (as described on the ABC website) was how 'he is raising hell against the carbon tax in barnstorming rallies and public meetings around the country'.

The ABC in its submissions (refer [Attachment B](#)) described the program's context to be 'the debating style used by some opponents of the Federal Government's proposed carbon tax, in particular Lord Monckton's style'. It added:

The substance [of the program] was not the science of climate change *per se*. Having regard to the criteria (listed in section 2.6 of the Procedures), the Managing Director took the view that neither this particular *Background Briefing* program nor complaints arising from it were occasions for detailed enquiry into the science of climate change.

Although the context of the program was the debating style of Lord Monckton, it contained a number of factual assertions about his and others' approach to climate science and the carbon tax.

The complainant alleges that the following statements were incorrect:

Statement 1

The first factual error alleged by the complainant was the statement:

The scientific paper Lord Monckton cites does not say that the polar bears drowned because of a big storm.

The segment replayed a part of Lord Monckton's speech at the rally during which he referred to a film made by Al Gore entitled 'An Inconvenient Truth'. Lord Monckton alleged that Al Gore, during that film, wrongly cited a particular scientific paper:

Well here are the polar bears we mentioned earlier, and Gore for once actually cites a scientific paper. He cites it wrong, of course, but he does cite it. And what he says is a scientific study shows for the first time they're finding polar bears that have drowned swimming long distances to find the ice. And so here is the actual map from the paper. Four dead polar bears.... And what have we got, in fact? Four dead polar bears. Did any of these polar bears, according to the paper he was quoting, die because they were trying to find the ice...? No. They died because there was a big storm with high winds and high waves, and they got swamped. ...

The reporter then said:

The scientific paper Lord Monckton cites does not say that the polar bears drowned because of a big storm. The paper suggests that the polar bears most likely drowned because there was less sea ice for them to seek refuge on because of climate change, and that the drowned polar bears could be statistically significant. The paper goes on

to say 'We further suggest that drowning-related deaths of polar bears may increase in the future if the observed trend of regression of pack-ice and/or longer open water periods continues'.

The complaint, as the ACMA understands it, is that Lord Monckton correctly cited that paper.

In the ABC's response to the complainant (refer Attachment A), it argued:

In relation to the various references by Al Gore, Lord Monckton and Background Briefing to the issue of drowned polar bears, the Managing Director did not regard it as proportionate in the circumstances to go into the detail. Noting that specialist literature is open to varying interpretations by specialists and non-specialists, and that both in public presentations such as Lord Monckton's and in journalism such as Background briefing – specialist literature must necessarily be tightly compressed, the Managing Director concluded that the program did not breach the accuracy standard in the ABC Code of Practice.

The ACMA considers that the ordinary, reasonable listener would have understood the relevant statement as a statement of fact - it was an inference of a factual nature, reasoned from observed facts. The language, tenor and tone used are unequivocal and conclusive.

Although climate change is a contentious subject, the clear message was that Lord Monckton misrepresented, or inaccurately cited, a published scientific finding.

The ACMA has assessed the statement against standard 2.1 of the Code, taking into account the relevant article.¹²

The context of the article is clear from the Abstract which refers to the polar bears having 'presumably' drowned and speculates that mortalities were due to off-shore swimming during late-ice (or mild ice) years, given the energetic demand placed on individual bears engaged in long-distance swimming. It also suggests that drowning related deaths may increase if the observed trend of regression of pack ice and/or longer open water periods continues.

Under the heading 'Discussion' the paper contains the following [Emphasis added by the ACMA]:

To our knowledge we report here the first observations of polar bears floating dead offshore and **presumed drowned while making apparent long-distance movements in open water**. Polar bears are considered strong swimmers but they have rarely been observed swimming far from ice or land.

The discussion continues with:

Our observations suggest that polar bears swimming in open water near Kaktovik drowned **during a period of high winds and correspondingly rough sea conditions** ...no other deleterious environmental conditions were present that might have led to the deaths of those polar bears.

¹²*Observation of mortality associated with extended open-water swimming by polar bears in the Alaskan Beaufort Sea* – Charles Monnett – Jeffrey S. Gleason - Provided to the ACMA by the Complainant on 6 March 2012 (no longer available on the ABC website).

It noted that 'if ... data [the four deaths] are simply spatially extrapolated, bear deaths during a period of high winds in 2004 may have been significant'.

And then it stated:

High mortality in 2004 was more likely related to extreme and metabolically demanding conditions, such as high sea states associated with stormy weather. As previously discussed, there is some indication that such conditions may become more common in the future ... Open water conditions where ice is virtually absent in August and September are expected to increase if Arctic air temperatures continue to rise... and thus swimming polar bears would be more at risk of encountering unfavourable conditions (i.e. high sea states and increased winds). Presumably, in the future, more time and energy will be allocated to swimming due to increased distances among floes...

Our count of dead polar bears related to the 2004 windstorm almost certainly represents an underestimate of the actual number of the polar bears affected. Swimming and floating polar bears are difficult to see from the survey's standard 457 m altitude even under ideal conditions. Also, some bears that drowned may have sunk or drifted outside the study area.

Other bears may have suffered sublethal effects and later succumbed due to exhaustion or inspiration of sea water as a result of swimming long distances in rough seas. ...

...

It concludes:

Minimizing and discouraging anthropogenic effects that encourage bears to remain or aggregate on shore as annual shorefast ice melts and pack ice recedes could ultimately reduce the risk of drowning.

The content of the article was scientific in nature using detail and terms that would not easily be absorbed by a reader with no scientific background. Without adjudicating on the science and the conclusions of the study, in the ACMA's view, the relevant paper contained findings that could have led to either of the interpretations at dispute. The ABC itself submitted 'specialist literature is open to varying interpretations by specialists and non-specialists...'

The article does discuss the storms referred to by Lord Monckton, which is consistent with some of his remarks but it does not suggest that the bears drowned because they 'got swamped', or were overwhelmed by stormwater, as he inferred. Rather they died from exhaustion due to the extra exertion of swimming in turbulent seas and for longer distances.

However, consistent with Al Gore and the reporter's statements, the article notes that such deaths will be likely to increase in the future due to the regression of ice.

In light of this, and given the ABC was aware of the possibility of varying interpretations, it was not accurate to state, unequivocally, that the 'paper did not say that the polar bears died because of a storm'. It might have been more accurate for the reporter to have said that the paper did not say the polar bears died because they got swamped in a storm.

However, given that the article was, on the whole, concerned with the likely increase of polar bear deaths because of the impact of receding ice caused by global warming, the ACMA is satisfied that the material facts were accurate and presented in context.

As outlined above, the context of the program is the debating style of climate change sceptics, and the ordinary, reasonable listener would have understood the message of the statement to be that Lord Monckton misrepresented, or inaccurately cited, a published scientific finding. Contextually, it would have been apparent to the ordinary, reasonable listener that part of the nature of Lord Monckton's debating style was to use the ambiguity of the literature to his benefit so as to discredit Al Gore, and create doubt.

In all the circumstances, the ACMA is not satisfied that the fact was material in this context or would have been materially misleading.

Accordingly, the ABC did not breach standards 2.1 and 2.2 of the Code in relation to this statement.

Statement 2

The next factual error alleged by the complainant was the reporter's statement that:

.. Lord Monckton's assertion, that the UN's climate change panel says seas will only rise by six centimetres this century, is pure fiction. According to chapter five of its report on sea levels, the sea is expected to rise between 20 and 50 centimetres this century.

Lord Monckton stated:

'Because Al Gore says in his movie that because of the melting of two ice sheets Greenland and the West Antarctic, sea level will rise by 20 feet imminently. But in fact, the IPCC says that because of those two ice fields the amount of contribution to sea level rise will be over the whole of the next 100 years 6 cm which is 2.5 inches, not 610 cm which is 20 feet. So there is a 100 fold exaggeration.'

The reporter then states:

On this occasion the exaggerations cut both ways. Yes, Al Gore did overstate his case, but Lord Monckton's assertion, that the UN's climate change panel says seas will only rise by six centimetres this century, is pure fiction. According to chapter five of its report on sea levels, the sea is expected to rise between 20 and 50 centimetres this century.

The complainant submitted (refer Attachment A):

Al Gore alleged a sea level rise of 7 metres due just to the melting of Greenland and West Antarctic sheet. Lord Monckton's retorts that from IPCC data, the expected contribution of sea level rise from melting of Greenland and West Antarctic sheet alone, works out to be only 6cm, therefore a 100 fold exaggeration. Ms Carlisle claims the IPCC AR4 reports states a much higher sea level rise of 20 to 50 cm, yes, but this figure is from all causes of sea level rise, namely thermal expansion ... the melting of glaciers and ice caps... in addition to the loss of ice from the Greenland and West Antarctic ice sheets.

Ms Carlisle should also have taken more care, given that Justice Burton agreed generally with Lord Monckton's criticism in his judgement that Al Gore was being alarmist...

The ABC submitted in relation to this statement:

On the issue of sea level rise, the Managing Director concluded that the difference between Lord Monckton's account of Al Gore's treatment of the matter and the program's account was one of degree. Both thought Al Gore had overstated his case. Their different calculations for the degree to which he had done so were based on different readings of work of the Intergovernmental Panel on Climate Change published in 2007. The Managing director concluded that the program acted reasonably in citing the IPCC in the way it did. The program and responses to it were not the occasion for an enquiry into the detail of varying interpretations of predictions about sea level rises over the next 100 years and it would be disproportionate to embark on such an enquiry in this context.

For the same reasons outlined in relation to Statement 1 above, the ACMA considers this statement amounted to factual content.

The ACMA agrees that both the reporter and Lord Monckton thought that Al Gore had overstated his case. The issue here however, as the ACMA understands it, is the allegation that it was inaccurate for Ms Carlisle to state that 'Lord Monckton's assertion, that the UN's climate change panel says seas will only rise by six centimetres this century, is pure fiction. According to chapter five of its report on sea levels, the sea is expected to rise between 20 and 50 centimetres this century'.

Looking at this statement in context, and the preceding comment that 'the exaggeration seems to cut both ways', the ACMA is satisfied that the ordinary, reasonable listener would have understood the message of the statement to be that, Lord Monckton, in accusing Al Gore of exaggerating, was also himself exaggerating. Again, this is within context of the broadcast being an assessment of the debating style of climate change sceptics. There has been no suggestion by the complainant that Lord Monckton's allegation that the IPCC stated a 6 cm rise was not an exaggeration. The ACMA does not consider it necessary to consult the relevant the IPCC literature in this instance.

Accordingly, the ABC did not breach standards 2.1 and 2.2 of the ABC Code in relation to this statement.

Statement 3

The complainant alleged that, based on the allegations in relation to statements 1 and 2 (above), that it was inaccurate for the reporter to state:

And the show continued like this for another 50 minutes, with Lord Monckton repeatedly misconstruing the scientific evidence.

The ACMA considers, having regard to the context of the broadcast, and the assessment of the debating style of Lord Monckton, that this statement would have been understood by the ordinary, reasonable listener, as a statement of opinion. The statement was made in the context of observations made of presentation style which is subjective in nature, and inherently subject to dispute.

Accordingly, it is not necessary to further consider the ABC's compliance with standards 2.1 and 2.2 of the Code.

Statement 4

The complainant raised concerns about the following statement made by the reporter:

[I]n dozens of newspaper articles, media appearances and lectures, Professor Ball asserts that he was a professor in the department of climatology at the University of Winnipeg, Canada. The only problem with that is that there is no department of climatology at the University of Winnipeg. Professor Ball disputed this.

The ordinary, reasonable listener would have understood this as a statement that 'there is no department of climatology at the University of Winnipeg' to be one of fact. The language, tenor and tone used are unequivocal and do not allude to individual opinion.

The complainant's concern is that the ABC omitted 'important background information about climatology courses taught by Ball while at the University of Winnipeg that would have supported his claims'. The ACMA does not consider that it was necessary in the context of this segment for the ABC to make further enquiries.

The ABC submitted:

The Managing Director concluded that there was, in the context of this matter, little to be gained from attempting to distinguish shades of meaning between the terms climatology 'department' and climatology 'program' in relation to the uses of those terms by the program, Dr Timothy Ball and the University of Winnipeg. The program acted reasonably in checking directly with the University of Winnipeg.

Insofar as the complaint relates to the accuracy of the statement that 'there is no department of climatology at the University of Winnipeg', the ACMA is satisfied that, in consulting the university itself regarding the question, the ABC made reasonable efforts to ensure this was accurate and in context.

Looking at context, however, and noting the assertion by the reporter that 'Professor Ball disputed this', it would have been apparent to the ordinary, reasonable listener, that this assertion was subject to dispute. The ACMA notes in this regard the following additional context:

The University of Winnipeg confirmed to *Background Briefing* that Professor Ball has been a professor in the geography department. Professor Ball disagrees.

Further, the segment includes an extract of Professor Timothy Ball disagreeing with the allegation of the reporter and the university, where he states:

And then, and today, that department of climatology is not there. It was there and it folded when I left. And I took over from Professor Bell, who set it up and helped him set it up. And I took over when he left to go to work with the ... State of Georgia as a climatologist.

The ACMA is satisfied that that the statement was presented in context and that the ABC was not required take further steps to ensure its accuracy.

Accordingly, the ABC did not breach standards 2.1 and 2.2 of the ABC Code.

Issue 2: Impartiality

Relevant Code standard

4. Impartiality and diversity of perspectives

Standards

4.1 Gather and present news and information with due impartiality.

The ACMA's general considerations as to whether or not material complained of is compliant with the ABC's obligations under Standard 4.1 of the 2011 Code are found at Attachment D.

Finding

The ABC did not breach standard 4.1 of the Code.

Reasons

Achieving impartiality requires a broadcaster to present content in a way which avoids conveying a prejudgement, or giving effect to the affectations or enmities of the presenter or reporter who play a key role in settling the tone of the program, through their style and choice of language. Probing and challenging questions may be used to explore an issue, and programs must demonstrate a willingness to include alternative perspectives without prejudgement.

The complaint expressed concern about a 'lack of balance and objectivity' in the broadcast, noting that this was 'due to the reporter's emotional entanglement' with the topic. In this regard, during the broadcast, Lord Monckton and other speakers expressed contempt for the Media, and for the ABC's coverage of Lord Monckton's tour. Additionally, Lord Monckton during a talk is heard referring to the reporter as 'an appalling woman', the broadcast features the reporter being jostled at the rally.

The ABC has submitted that the program in this case was 'more about style than substance'. That is, the program was not about the science on global warming, but rather 'the style of debate of those examined in the broadcast'. The ABC also submitted:

The Managing Director concluded that [the reporter] had not been unduly aggressive or hostile towards Lord Monckton. Her questioning of him had been persistent and firm, but it had also been civil. She had not described Lord Monckton in terms as robust as his description of her to a crowd as an 'appalling woman'.

The broadcast was aired the week following the Prime Minister's announcement of the details of the Australian Federal Government's proposed carbon tax. The ACMA considers that the ordinary reasonable listener would have understood the broadcast to primarily purport to present an exploration of the debating style of sceptics on the debate on climate change and global warming - in particular, the strategy of the sceptics in creating doubt.

The reporter's focus was on Lord Monckton and talks given during his Australian tour. This is evident at the introduction of the broadcast, which states 'Lord Christopher Monckton has been touring the nation for the last three weeks, attacking the science, the scientists, and the government.'

The issues raised in the broadcast are consistent with its theme:

- The emergence of the Galileo Movement;
- The publicity in the media about Lord Monckton associating the views of Professor Ross Garnaut with fascism;
- The subsequent cancellation of Lord Monckton's speaking engagements;
- Lord Monckton's manner in criticising Al Gore;
- The question of who funded Lord Monckton's tour;
- The question of the efficacy of allowing the public to decide on scientific facts.

There is no question that the report presented a critical outlook on Lord Monckton's style of presenting the science of climate change, and the complainant's concern in this regard is noted. However, this does not amount to a breach of the Code. A report that presents a view that is opposed by a particular person or group is not inherently partial. The ACMA recognises that the nature of current affairs reporting requires reporters and presenters to be questioning, and at times sceptical, in their analysis of important issues. The ACMA does not interpret the requirement for impartiality so as to restrict or prohibit a thorough examination of important questions.

As indicated at [Attachment D](#) whether a breach of the requirement has occurred will depend on the themes of the report, the range of perspectives that have been presented in relation to those themes, any editorial comment, and the overall presentation of the story.

In this case, the ACMA considers that while the reporter did test Lord Monckton's credibility conveying the suggestion that Lord Monckton makes false claims; sought information about the source of funding of his tours; and asked challenging questions, this was within the context of the broadcast. Matters such as the testing of his credibility, the truth of his assertions, conflicts of interest, and his associations with discredited scientists, are valid matters to be probed on a contentious matter of public concern.

The broadcast included the viewpoints of other climate change sceptics, including Professor Ball, Joanne Nova and David Archibald. In interviewing these sceptics, the reporter's questioning manner was neutral and was not contemptuous or derisive, and did not use colourful or emotive language.

Where the report made reference to the scientific debate regarding global warming, the language used conveyed to the ordinary reasonable listener that this issue is not undisputed within the scientific community. For example, Professor Oreskes states 'Nothing in science is ever proven absolutely positively'.

While the interview with Lord Monckton at the rally was cut short as he had been called on stage, this did not limit Lord Monckton's ability to provide complete responses to the questions posed.

The ACMA is not satisfied that the ABC failed in its obligations to present content with due impartiality for this program. The broadcast contained perspectives of opposing

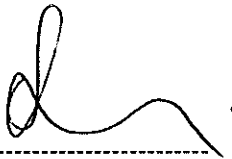
parties on the science of climate change, and allowed significant air time for Lord Monckton to voice his view.

Accordingly, the ABC did not breach standard 4.1 of the Code.

Decision

I, Kathleen Sillari, Executive Manager, Content and Consumer Branch, being the appropriate delegated officer of the Australian Communications and Media Authority, determine for the above reasons that the ABC, in relation to the broadcast of *Background Briefing – The Lord Monckton Roadshow* on 17 July 2011, did not breach standards 2.1, 2.2 and 4.1 of the *ABC Code of Practice 2011*.

Signed:



Kathleen Sillari

Dated: 23 day of March 2012

ATTACHMENT A

Complaint to ABC

#1 Four Polar Bears drowned due to Global Warming

In the program Wendy Carlisle states:

The scientific paper Lord Monckton cites does not say that the polar bears drowned because of a big storm. The paper suggests that the polar bears most likely drowned because there was less sea ice for them to seek refuge on because of climate change, and that the drowned polar bears could be statistically significant.

This is what the paper in question states about the polar bear deaths in relation to climate change: Monnett, C., and J. S. Gleason, 2006. Observations of mortality associated with extended open-water swimming by polar bears in the Alaskan Beaufort Sea. *Polar Biology*, 29, 681-687. Although a number of published papers have discussed implications of climate change on polar bears (e.g., Stirling and Derocher 1993; Stirling et al. 1999; Norris et al. 2002; Stirling 2002; Derocher et al. 2004), to date, mortality due to swimming has not been identified as an associated risk. Evaluations of future population dynamics and the significance of sources of human-related and natural mortality in polar bears may need to consider this previously unidentified source of natural mortality which may be significant in some years (e.g., mild-ice or late-ice) and may become important in the future if Arctic pack ice continues to regress. from page 686.

While future deaths may be possible it is clear the paper does not claim the deaths in question were due to climate change but instead due to storms: Our observations suggest that polar bears swimming in open water near Kaktovik drowned during a period of high winds and correspondingly rough sea conditions between 10 and 13 September 2004. No other deleterious environmental conditions were present that might have led to the deaths of those polar bears. P.684

There is also the decision by a Justice of the UK High Court on this specific issue.

In a 2007 UK High Court case brought by Stuart Dimmock against the accuracy of Al Gore's film, *An Inconvenient Truth*, Justice Burton concluded, after examining the film and scientific literature, that Gore committed nine counts of scientific inaccuracy.

On Polar bears he concludes:

Justice Burton: Mr Gore says: "A new scientific study shows that for the first time they are finding polar bears that have actually drowned swimming long distances up to 60 miles to find the ice. They did not find that before." The only scientific study that either side before me can find is one which indicates that four polar bears have recently been found drowned because of a storm. That is not to say that there may not in the future be drowning-related deaths of polar bears if the trend continues.

Factual error #2 Melting Greenland raising sea levels

Lord Monckton: "As Al Gore says in his movie that because of the melting of two ice sheets Greenland and the West Antarctic, sea level will rise by 20 feet imminently. But in fact, the IPCC says that because of those two ice fields the amount of contribution to sea level rise will be over the whole of the next 100 years 6 cm which is 2.5 inches, not 610 cm which is 20 feet. So there is a 100 fold exaggeration."

Then Ms Carlisle comments:

Ms Carlisle: "On this occasion,Lord Monckton's assertion that the UN's Climate Change panel that the sea will rise by 6 cm this century is pure fiction, According to Chapter 5 of its report on sea levels the sea is expected to rise by between 20 and 50 cm this century".

The Facts:

Al Gore alleged a sea level rise of 7 meters due just to the melting of Greenland and West Antarctic sheet. Lord Monckton's retorts that from IPCC data, the expected contribution of sea level rise from melting of Greenland and West Antarctic sheet alone, works out to be only 6cm, therefore a 100 fold exaggeration. Ms Carlisle claims the IPCC AR4 report states a much higher sea level rise of 20 to 50cm, yes, but this figure is from all causes of sea level rise, namely thermal expansion (17-28 cm), the melting of glaciers and ice caps (10-12 cm), in addition to the loss of ice from the Greenland and West Antarctic ice sheets.

Climatology at University of Winnipeg

In discussion with Tim Ball Reporter Wendy Carlisle states: No, Background Briefing received that information from the university itself. In email correspondence, which we'll post on our website, the university says, 'there is not and never has been a department of climatology.'

In fact the correspondence spoke of a "program" rather than a department. Ms Carlisle has misrepresented what was stated in the correspondence, we repeat below.

"Wendy. Dr. Ball was a Professor in our Geography Department until 1996. We have never had a Climatology program. Any correspondence the University may have had with Dr. Ball is confidential.

I trust this responds to your query. "

http://www.abc.net.au/rn/backgroundbriefing/documents/bbg_20110717_hurley_email.pdf

A search of the web archives reveals that U. Winnipeg Department of geography indeed offered the following "climatology" courses in 1999 which seems to contradict statements received from the University. Perhaps the ABC could have spent a little more time investigating this to clarify the facts to its audience.

PHYSICAL GEOGRAPHY COURSES

<http://web.archive.org/web/19990209145331/http://www.uwinnipeg.ca/~geograph/Courses/geog2.htm>

2205/6 CLIMATOLOGY (Le3,La2) The course expands upon the information introduced in the climate half of Physical Geography 1200/6. The first half of the course will review and elaborate upon the global pattern and fundamental mechanisms of climate. The second half will examine meso- and microclimates, including topics such as bioclimatology, agroclimatology, urban climatology, and applied climatology. Students with standing in 2205/3 cannot receive credit for 2205/6. Prerequisite: 1200/6 or 1201/3 and 1202/3. Corequisite: Introductory Statistics advisable.

2206/3 WORLD CLIMATOLOGY (Le3) This course examines the fundamental mechanisms of macro-scale climates and surveys the distribution of climates across the surface of the Earth. Issues related to global climate change and modelling will be introduced. Prerequisite: 1200/6, or 23:1201/3 and 23:1202/3. Restrictions: Students with standing in 2205/6 cannot receive credit for 2206/3.

2207/3 PHYSICAL CLIMATOLOGY (Le3,La2) This course examines the micro-scale and meso-scale processes by which energy and mass are transferred between the Earth and the atmosphere. The spatio-temporal characteristics of these processes are used to study climates and climate variability. Applications in bioclimatology, agroclimatology, and urban climatology will

be discussed. The labs provide an introduction to the use of computers in the analyses of climatological data and the modelling of climatic processes. Prerequisite: 23:2206/3. Restrictions: Students with standing in 2201/6 cannot receive credit for 2207/3

3206/3 SYNOPTIC CLIMATOLOGY (Le3) This course examines the relationship between atmospheric circulation systems (at the surface and in the upper atmosphere) and weather and climate at the surface. The nature of atmospheric circulation variability and teleconnections is discussed and used to explain climatic anomalies such as El Ninos, droughts, and floods. Prerequisite: 2210/3.

Balance

In the course of the program it was clear that reporter Wendy Carlisle felt she was being intimidated by crowds attending Lord Monckton's talks and protest rally's the resulting broadcast is hopelessly compromised as a result of Wendy Carlisle's emotional entanglement with her subject and as a result lacked balance and objectivity

ABC response to complaint

In the case of the Background Briefing program to which you refer, the Managing Director took the view that the program was not an occasion for detailed enquiry into the science of climate change. It follows that it would be disproportionate for the handling of complaints received about the program to become such an occasion.

You have criticised the Background Briefing reporter, Wendy Carlisle. The Managing Director concluded that she had not been unduly aggressive or hostile towards Lord Monckton. Her questioning of him had been persistent and firm, but it had also been civil. She had not described Lord Monckton in terms as robust as his description of her to a crowd as an 'appalling woman'.

The Managing Director considered that some of the language used in the program would not have been understood by the audience as being literally applicable, much in the same way that Lord Monckton's presentation style employs techniques which a reasonable person would not take literally. For example, when Lord Monckton ridicules Al Gore's Tennessean accent Lord Monckton is not to be taken literally as suggesting that a person's accent affects the merit of what they are arguing. When Lord Monckton asserts, as he did to at least one crowd, that the ABC now represents hallmarks of fascism exhibited in Germany in the 1930s, reasonable people do not take him literally. (It is noted, however, that the ABC reported this harsh criticism, both in its news coverage and in Background Briefing.)

The ABC does not have concerns about the fact that Background Briefing applied scrutiny to the styles of debate of those examined in the program. As a seasoned media performer, Lord Monckton would reasonably expect media scrutiny. He also received opportunities to put his perspective on various ABC platforms during his recent Australian visit, as he did on his 2010 visit. On ABC television on 30 June (sic) Lateline covered the beginning of his tour. Lord Monckton's debate with Richard Dennis at the National Press Club was broadcast by ABC TV on 19 July. Lord Monckton appeared on ABC local radio in at least Sydney, Brisbane and in the Riverina, and there was considerable coverage online.

In relation to the various references by Al Gore, Lord Monckton and Background Briefing to the issue of drowned polar bears, the Managing Director did not regard it as proportionate in the circumstances to go into the detail. Noting that specialist literature is open to varying interpretations by specialists and non-specialists, and that - both in public presentations such as Lord Monckton's and in journalism such as Background Briefing - specialist literature must necessarily be tightly compressed, the Managing Director concluded that the program did not breach the accuracy standard in the ABC Code of Practice..

On the issue of sea level rise, the Managing Director concluded that the difference between Lord Monckton's account of Al Gore's treatment of the matter and the program's account was one of degree. Both thought Al Gore had overstated his case. Their different calculations of the degree to which he had done so were based on different readings of work of the Intergovernmental Panel on Climate Change published in 2007. The Managing Director concluded that the program acted reasonably in citing the IPCC in the way it did. The program and responses to it were not the occasion for an enquiry into the detail of varying interpretations of predictions about sea level rises over the next 100 years and it would be disproportionate to embark on such an enquiry in this context.

The Managing Director concluded that there was, in the context of this matter, little to be gained from attempting to distinguish shades of meaning between the terms climatology 'department' and climatology 'program' in relation to the uses of those terms by the program, Dr Timothy Ball and the University of Winnipeg. The program acted reasonably in checking directly with the University of Winnipeg.

...

Complaint to the ACMA

Factual errors in the program include:

1. Incorrect assertions and misrepresentations regarding the cause of polar bear deaths reported in a published scientific paper (Monnett, C., and J.S. Gleason, 2006. Observations of mortality associated with extended open-water swimming by polar bears in the Alaskan Beaufort Sea. *Plar Biology*, 29, 681-687.)
2. Errors in ascertains about sea level rise from melting of Greenland and Antarctic ice caps.
3. On the basis that the ABC is in error on items 1 and 2, claims made in the program that Lord Monckton "repeatedly misconstruing the scientific evidence" in relation to climate change are patently false and require correction and an apology from the ABC.

ABC also failed to accurately report on the background of Prof. Tim Ball's under section 2 of its Editorial Policy, omitting important background information about climatology courses taught by Ball while at the University of Winnipeg that would have supported his claims.

The complaint also raised issues of lack of balance due to the reporter's emotional entanglement with the subject which were not dealt with in the complaint response in a satisfactory manner...

The ABC claim "the Managing Director took the view that the program was not an occasion for detailed enquiry into the science of climate change." However the factual errors outlined in detail in the complaint are central to it and specifically involve errors made by the ABC about specific

aspects of the science of climate change. Had the reporter not raised the issues there would not have been an argument. The ABC used the incorrect claims by the reporter to suggest that Lord Monckton was "repeatedly misconstruing the scientific evidence". However the evidence presented to the ABC clearly indicates it was ABC's reporter who was "repeatedly misconstruing the scientific evidence." The ABC reporter took it upon herself to make specific statements about climate science in an attempt to defame Lord Monckton, as such the Managing Director's argument that it would be disproportionate for the handling of complaints received about the program to become such an occasion" does not hold water and ABC should deal with the specific errors raised in the complaint, and apologise [to] the audience and to Lord Monckton.

ABC's submission to ACMA

Standards 2.1 and 2.2

The Background Briefing program's context was the debating style used by some opponents of the Federal Government's proposed carbon tax, in particular Lord Monckton's style. The substance was not the science of climate change *per se*. Having regard to the criteria (listed in section 2.6 of the Procedures), the Managing Director took the view that neither this particular *Background Briefing* program nor complaints arising from it were occasions for detailed enquiry into the science of climate change.

Audience response was not out of the ordinary, and it is also noted that the complainant in this matter has no particular proximity to the substance of the program which might justify detailed attention with its associated time and resources.

To the extent considered proportionate, the Managing Director addressed issues of accuracy (Code section 2.1, 2.2) and the reasons for his decision were conveyed to [the complainant] by Audience and Consumer Affairs by email dated 8 September. The ABC stands by those reasons and the work of its staff which underpins them.

Standard 4.1

In light of the above (refer submissions in relation to accuracy) and in particular considering the subject and nature of the content in this case, the ABC believes the standard in section 4.1 of the Editorial Policies were met. The impartiality due in the circumstance was shown. Lord Monckton's views were amply, but not unquestioningly, conveyed. The likely expectations of a *Background Briefing* audience would have been met.

Accuracy considerations

In determining whether or not a statement complained of was factual material for the purposes of standard standards 2.1 and 2.2 of the ABC Code, the ACMA generally has regard to the following considerations:

- The meaning conveyed by the relevant statement is assessed according to what an 'ordinary, reasonable viewer' would have understood the program concerned to have conveyed. See definition above.
- The ACMA must assess whether the relevant statement would have been understood by the ordinary reasonable viewer as a statement of fact or an expression of opinion.
- The primary consideration would be whether, according to the natural and ordinary meaning of the language used and the substantive nature of the message conveyed, the relevant material presents as a statement of fact or an expression of opinion.
 - In that regard, the relevant statement must be evaluated in its context, i.e. contextual indications from the rest of the broadcast (including tenor and tone) are relevant in assessing the meaning conveyed to the ordinary reasonable viewer.
 - The use of language such as 'it seems to me', 'we consider/think/believe' tends to indicate that a statement is presented as an opinion. However, a common sense judgment is required as to how the substantive nature of the statement would be understood by the ordinary reasonable viewer, and the form of words introducing the relevant statement is not conclusive.
- Inferences of a factual nature made from observed facts would usually still be characterised as factual material (subject to context); to qualify as an opinion/viewpoint, an inference reasoned from observed facts would usually have to be an inference of a judgmental or contestable kind.
- While licensees are not required to present all factual material available to them, if the omission of some factual material means that the factual material actually broadcast is not presented accurately, that would amount to a breach of the standard.
- In situations where witnesses (to an event or circumstance) give contradictory accounts and there is no objective way of verifying the material facts, the obligation for the reporter is to present factual material accurately will ordinarily require that the competing assertions of fact be presented accurately as competing assertions.
- The identity of the person making the statement would not in and of itself determine whether the statement is factual material or opinion, i.e. it is not possible to conclude that because a statement was made by an interviewee, it was necessarily a statement of opinion rather than factual material.
- Statements in the nature of prediction as to future events would nearly always be characterised as statements of opinion

Impartiality considerations

In determining whether or not material complained of is compliant with the ABC's obligations under Standard 4.1 of the Code, the ACMA generally has regard to the following considerations:

- The meaning conveyed by the relevant material is assessed according to what an ordinary reasonable viewer would have understood the program concerned to have conveyed. The Court's interpretation of the ordinary reasonable viewer has been detailed above in the considerations under accuracy.
- Achieving impartiality requires a broadcaster to present content in a way which avoids conveying a prejudgement, or giving effect to the affections or enmities of the presenter or reporter in respect of what is broadcast. In this regard:
 - The ACMA applies the ordinary English meaning of the word 'impartial' in interpreting the Code. The *Macquarie Dictionary* (Fifth Edition)¹³ defines 'impartial' as: 'not partial; unbiased; just'. It defines 'partial' to include: 'biased or prejudiced in favour of a person, group, side, etc., as in a controversy'. 'Bias' is defined as: 'a particular tendency or inclination, especially one which prevents unprejudiced consideration of a question'.
 - The ACMA considers that a helpful explanation of the ordinary English usage of the term 'bias' is set out by Hayne J in *Minister for Immigration and Multicultural Affairs v Jia Legeng*¹⁴ as follows:

'Bias' is used to indicate some preponderating disposition or tendency, a 'propensity; predisposition towards; predilection; prejudice'.¹⁵ It may be occasioned by interest in the outcome, by affection or enmity, or, as was said to be the case here, by prejudgement. Whatever its cause, the result that is asserted or feared is a deviation from the true course of decision-making, for bias is 'any thing which turns a man to a particular course, or gives the direction to his measures'.
- A perspective may be quite reasonably favoured if all the evidence supports it; it is only where the favouring is undue in some way that the Code is breached.
- A program that presents a perspective that is opposed by a particular person or group is not inherently partial. Whether a breach of Standard 4.1 has occurred will depend on the themes of the program, any editorial comment, the overall presentation of the story and the circumstances in which the program was prepared and broadcast.
- Presenters and reporters can play a key role in setting the tone of a program through their style and choice of language. The manner in which a report is presented or reported can influence the conclusions that an ordinary reasonable listener would draw from a broadcast.

¹³ Online edition at <http://www.macquariedictionary.com.au>

¹⁴ (2001) 205 CLR 507 at 563 [183] Gleeson CJ and Gummow J at 538 [100] agreeing.

¹⁵ *Oxford English Dictionary* (Second Edition), meaning 3(a).

- The nature of current affairs reporting requires reporters and presenters to be questioning, and at times sceptical, in their analysis of important issues. However, while probing and challenging questions may be used to explore an issue, programs must demonstrate a willingness to include alternative perspectives without prejudgement.