

Scientific Meeting & Dinner Wednesday 19th September 2018 'Media & Medicine'

Scott Chapman: Good Evening Ladies and Gentlemen, we will make a start. Scott Chapman is my name, I am the Vice President of the society and Dr David Gronow is the President. He is on special assignment somewhere, I expect overseas, so I am filling in for him. So welcome to tonight's talk which is on 'Media & Medicine', I am sure it is going to be fantastic. We have got two wonderful speakers, I was told that Richard is going first and then Sophie was going first and then Richard was going first, but I think we have all established that Sophie is going first. Before I introduce Sophie, just one piece of housekeeping that I have been asked to convey because there have been issues previously, and that is just in relation to mobile phones – nobody is to be on their mobiles please, so switch them off and no calls to be taken. There are phones located in the building apparently if you need them. Check into a phone booth and do a superman impersonation.

Now that I have got that out of the way, I would like to introduce to you this evening firstly Sophie Scott, who I know personally I am pleased to say; an award-winning journalist, broadcaster and author. Sophie is on a mission to educate and inspire people to enhance their health and happiness. She has received numerous awards, she is the National Medical Reporter for the ABC, so you would have seen her on the ABC for those of you who still watch the ABC. I won't make comments about other stations after dark. Her stories appear on the ABC News, 7:30, ABC Radio and online. She has hosted and spoken at numerous events, including Research Australia Awards, the Mayo Clinic Social Media Conference and Royal Australasian College of Physicians Conference and many mental health and patient-centred events. Where I got to know Sophie after the last couple of years, Sophie is on the board of the AMA (NSW) Charitable Foundation, as am I. Sophie is also the author of two books, 'Live a Longer Life' and 'Roadtesting Happiness'. Her stories have led to improvements for patients in many areas, including cosmetic surgery, genetic testing and eating disorders. She is an ambassador for Bowel Cancer Australia and on the advisory board of the Australian Mental Health Prize. In her spare time, if she has any, she is a mother and step-mum to four boys. As a father of two boys, I can only imagine what double that is like. Thousands of her readers regularly respond to her blog on health and happiness, and you can follow her on Twitter and Instagram. Sophie Scott, thank you.

Sophie Scott: Thank you very much Scott. That was a great introduction, so you know a little bit about me, but I am very grateful that you could all be here this evening. We know that you all have very busy lives and your time is precious, so we are very grateful you could take the time to be at this important event. Before we get underway, I would like to acknowledge the traditional owners on the land on which we meet and pay my respects to their elder's past, present and emerging. You heard from Scott a little bit about what I do, but I will just tell you a little bit more about my job at ABC. I work across all our platforms which is sort of unusual these days. We now work across - we are called Multiplatform Journalists, so we file for radio, television, online and 7:30. But fundamentally what we do as a basis is that we are storytellers. So that is how I see myself, as a storyteller. I have been privileged to tell stories of amazing medical research breakthroughs. If you think about some of the breakthrough's we have had in the last little while, Professor Ian Frazer and the cervical cancer vaccine, a development that is one of the biggest developments in cancer prevention in literally decades. And I also tell stories of Australian patients and their families, and I really value the fact that they trust me to tell their stories. Because, through them, through those patients, and just like you – Doctors and Lawyers – Journalists can also influence public health policy and we can effect change. So, what I am going to be talking about tonight is a couple of areas where I have done stories, my team of people, where we have been able to see changes and improvements to public health as a result of the issues that we have highlighted. I want to start just by playing two short videos of a family that I focused on earlier this year. This was a couple named Rachel and Jonny

Casellar, and I met them at the end of last year, but we did two 7:30 stories with them this year, and their story ended up being called 'Mackenzie's Mission'. So, I will just play you two short videos about that...if I can get the technology to work.

VIDEO 1 – Mackenzie's Mission

Sophie: So that was the first story we did about Mackenzie, and I will just play you the other one we did a week later. So, this was just a week later.

VIDEO 2 – Mackenzie's Mission 2

Sophie: So that was a story that we did, and even since then there has been some developments as well. In NSW the government has announced that they are going to be screening all babies born in NSW for SMA as well. So that is an example of a story that we were able to do, where we were quite - even just within a week, so we did that first story and then a week later we did the second story and followed the family to Canberra and filmed that story. So, it was a pretty remarkable outcome to see government's listening and acting, in terms of introducing and putting so much money towards genetic testing and genetic screening, and the pilot program that they will be rolling out will be screening hundreds and thousands of prospective couples to look for whether they have the genes for SMA. So, what I wanted to talk to you about tonight, I think I am going to be talking about the good things that can happen in medicine and media, and I think Richard is going to be talking about the not-so-good. So, this is the positive side of the ledger. And what I wanted to discuss is what I call 'communicating for change'. So, I believe it is the job of a good journalist to shine a light in dark places, but I would argue that just doing that isn't really enough. If we want to make a difference, and many of us in this room do want to make a difference to society, what's harder than simply highlighting the problems, what's crucial if you want to see that meaningful change is to identify realistic solutions and provide a pathway. So, I work in an investigative team at the ABC, we are now called the Specialist Reporting Team, and we are an investigative team that work across all our platforms of ABC as I mentioned. We are also lucky in that we have researchers and we have producers and we have camera operators who are dedicated to really making sure that we do very impactful and – you can see it from that story we did for 7:30 how beautifully they were put together – and our brief is really to find those exclusive stories that are going to have impact. As I said, we roll those stories out across all the platforms on ABC. And I wanted to talk tonight briefly on two issues where we have really made a difference in the last couple of years, when it comes to public health. These are two issues, particularly to do with patient safety that we focused on, where I think we have made a difference. So, all patients, all people in Australia who want to have surgery deserve to have that done in a safe way and with the proper equipment, making sure that there are properly trained staff and proper resuscitation equipment. And it doesn't matter if that is open heart surgery or cosmetic surgery, in my view. But that wasn't happening in Australia, particularly when it came to cosmetic surgery. About two years ago, we started getting patients contacting us about a group called The Cosmetic Institute. This was a group that was set up, really to provide very low-cost cosmetic surgery, particularly breast implants for women across Australia. And women from all across Australia flew to Sydney to go to this Institute. I want to tell you about a woman called Narelle that we met. She was a young Sydney mum who had had two kids and just wanted to feel a bit better about herself and get breast implants. She decided to get breast implants from The Cosmetic Institute. So here is a video about her story.

VIDEO 3 – Narelle/Cosmetic Surgery

Sophie: So, you can see from that, that Narelle was just a young mum, she just wanted to have a boost in her life, but she was left in chronic pain and quite disabled and debilitated from having the procedure from The Cosmetic Institute. So, what was happening at The Cosmetic Institute, as that video alludes to, women were being given very high doses of a local anaesthetic but many of them were suffering potentially life-threatening complications as a result of that procedure. And this woman - Amy Rickhuss – suffered a suspected heart attack and was rushed to hospital, and there was no proper resuscitation equipment where these procedures were taking place. They were in the equivalent of an office or a beautician salon. But there was nothing that you should really expect. Many doctors and nurses got in contact with us, and my colleague Rebecca Armitage worked with me on this story, to warn us what was happening. Because they were using such high doses of local anaesthetic, it was causing the patients' hearts to stop, and it was really a miracle that more women weren't injured or killed as a result. So, we covered this story for the 7:30 report, ABC TV news and online. We really decided to take ownership of this story and it paid off. As that little video alluded to, we (were leaked) **OBTAINED** a report from the Health Care Complaints Commission (HCCC), showing in the last 12 months what had been happening at The Cosmetic Institute, and it was really horrific to read that report. One of the great things is this report just arrived in the mail to me, addressed to me, (leaked) **OBTAINED** from the Health Care Complaints Commission. I have no idea who sent it, but it was a fantastic way to get information. So, if any of you would like to send me anything in the mail, please feel free. I can give you the ABC's address a little bit later, but it is a really good way to get information to a journalist without having to disclose who you are. What that report from the HCCC revealed, which probably never would have been made public, was that in just 12 months there had been six patients who had suffered these complications, including a cardiac arrest. So, getting that report and getting that information was really crucial, because we got a really good insight into what was happening to the patients. We knew we had to stay with this story, we knew we had to see changes to patient's safety to improve things and this is happening in Sydney, this was happening at clinics all across Sydney. We realised that the only way for things to change would be two ways. The two options for change that we could see were regulatory changes, in terms of governing where cosmetic surgery could actually take place – because as I said, it was taking place in the equivalent of an office or a beautician – the other issue was asking the medical board or convincing the medical board to institute a review governing cosmetic surgery and doctors' behaviour. Both of those things happened. Through our continued stories and talking to 'whistle-blowers' and convincing patients like Narelle to come on and tell their stories and doing a number of stories across 2016 and 2017, governments began to act and began to listen. The NSW government changed legislation on where cosmetic procedures could be performed, so it had to be the same standards and accreditation as a private hospital. That effectively put an end to that business model, and cosmetic surgery could no longer be performed in the equivalent of a beautician or an office. I am happy to say that after NSW led the charge with these changes, Victoria and QLD also followed suit. Importantly, the changes to the medical board were important as well, there was some important regulations, including cooling off periods and mandatory assessments. Also doctors are now not able to offer finance to patients, but we did notice there is a loop hole. With some of these new, not After Pay but one called Zip Pay, I don't know if you have heard of Zip Pay – but a group called Laser Clinics Australia – we did the story on this a few weeks ago – are now offering what they call the 'pout now, pay later' service. So we did notice a loophole in the system, that the 'pout now, pay later' encouraging people to get lip fillers through Zip Pay and the medical board has now said that they'll condemn that as well, which is good. So this was a very good result, it took over a year or 18 months of sustained stories highlighting the problems of cosmetic surgery, but we were very pleased with the outcome. The NSW government is still looking at increasing regulations, and also

COAG is looking at banning the term “cosmetic surgeon”. So there is still more work to be done, but it is still ongoing.

So, another important area that we wanted to look at was eating disorders. We have done a number of stories on the issue of eating disorders, but the story we hadn't told is really that so many families across Australia were having difficulty accessing good psychological care for their children with eating disorders with a devastating result. We interviewed a number of families to highlight the issue and really the appalling lack of help and facilities for these families. The three people in the story that you can see there, two of the women lost their daughters to suicide from Anorexia, and the girl with the short hair her sister died of suicide, all from Anorexia. None of them had received any significant psychological help to help them. So, when we raised this issue we sought comment and input from the Health Minister Greg Hunt again, because we knew it was a national issue. He listened again to our concerns and he acted as well. So, what he did, after our stories, he decided to include eating disorders on the Fifth National Mental Health Plan. And that was important because that has to do with things like workforce capabilities and things like that. He also asked the Medicare Benefits Schedule (MBS) Review Taskforce to increase the number of subsidised visits to a Psychologist. Since then there has been even more movement. Since then the NSW government has funded the first research institute for eating disorders called the InsideOut Institute. And the Federal government has also started a pilot project in QLD where patients with serious eating disorders, like Anorexia, will now get up to 50 sessions with a Psychologist – because all of the research shows that patients need a minimum of 20, and at the moment they are only getting 8, which is clearly not enough. So this pilot program in QLD, with up to 50 sessions plus a holistic team of people to help the patient, if that is a success it will be analysed and then if that is a success, it could be rolled out nationally, and that would be a great model of care for patients with serious eating disorders.

So, why do these stories make a difference? I think the thing that these particular stories had in common, they highlighted systemic failures – so these weren't one off cases going wrong – this was, particularly with cosmetic surgery and even eating disorders as well, there was systemic failures in the care that was being given to patients. Those failures led to serious life-threatening consequences, for the eating disorder patients who had died by suicide and for the women getting cosmetic surgery being left and almost dying as a result of these procedures. We were able to tell very personal and highly personal stories, it was key to get the patients to come and talk to us, agree to go on camera. And, particularly with the cosmetic surgery stories, that was very difficult because a lot of the women were very embarrassed. Very embarrassed that they sought cosmetic surgery and that it had gone so wrong. So it took a lot of convincing to get the women to talk to us. We were also able to utilise all of ABC's platforms, so we really did blanket coverage – radio, television, online, 7:30 – and a sustained campaign or a sustained series of stories. When you want to see something change it is rare that you will just do one story and then something will happen. You really need to be highlighting the issue, because everyone has got pretty short memories and the media has a very short spin cycle, 24 hours and then we move on to something else. But if you really want to get into people's consciousness and really get something to be changed, you've really got to keep hammering away at the point. We also sought response and action from leading experts, doctors and the medical colleges and also government, it was crucial. Lawyers were crucial too, for a number of stories that we have done. I would reflect that most of the stories we do with investigation, we work with ABC's lawyers and they often tell us to take all the good bits out, all the really juicy stuff. So it is a cooperation and a collaboration with our lawyers, but we are also mindful of – interestingly we received a letter from The Cosmetic Institute lawyers, even before we published anything, even before we had gone to air with anything at all, they sent a sort of cease and desist letter which we just ignored and kept going. Lawyers have also been very pivotal in our stories, particularly to do

with class actions, so I was also involved – I won't talk about in detail now – but for the last 18 months I have been doing all the stories about all the vaginal mesh problems and that class action and highlighting those stories has led to most of those products being removed from the market. We also recently got the exclusive story about the Essure contraceptive device, which is also the subject of a class action now. So, lawyers have been very useful to us to be able to get inside really important stories and also get access to patients and their clients as well. So if any of you lawyers in the audience have any really juicy cases that you are working on that you think would be good for us to highlight, please get in touch. So that is just a little snapshot of some of the stuff we have been working on over the last couple of years, as I said I would love you all to get in touch with me. The best way to do that is either through my website (<https://www.sophiescott.com.au/>) or via social media. I am very active on social media, it is a great way of getting our stories out across to a different audience as well. So if you are on social media, I would love for you to follow me on twitter or Instagram, and my handle for both those is @sophiescott2, and the reason I have to have the number 2 is because @sophiescott, there is a Professor Sophie Scott in London, who is a Neuroscientist, so I think she outranks me. So she has @sophiescott. But if you do want to get in touch and stay in touch, I would love for you to follow me on social media or just get onto my website, or you can just do the old-fashioned way and just send me a letter to ABC. So thank you very much for listening and I will be happy to take questions after our next speaker. Thanks very much.

Scott: Thank you very much Sophie and thank you for the kind words about lawyers. Our next speaker is a lawyer, but perhaps more importantly and more significantly for tonight's purposes, Richard Bean was most recently the Chair in the Australian Communications and Media Authority (ACMA), Australia's regulator for broadcast media, telecommunications, radio communications and the internet. He was appointed Deputy Chairman of ACMA in 2010 for a five-year term, and in 2015 his appointment was extended for a further two years until October 2017. Before joining ACMA, Richard was General Counsel and Company Secretary at Wireless Broadband Infrastructure Owner and ISP Unwired Group Ltd, which was subsequently acquired by Optus. Richard has held previous positions in legal and business affairs with Network Ten and was formerly a Partner at Blake Dawson Waldron (now Ashurst). Richard is married with three high school aged children, so Richard thank you very much, if you could come up and speak to us - just again one thing of housekeeping for questions, there will be time for questions at the end but we will keep it to time, so if you do that I will introduce it at the time. So Richard, over to you.

Richard Bean: I was in a previous life one of those lawyers that told those in the news room at channel Ten to leave out the good bits. Good Evening everyone, thanks for having me along – I was also a fortune teller at Luna Park once, its sort of a bit dull now my CV, I leave that off. I would also like to acknowledge the traditional owners of the land on which we meet tonight and pay my respects to any elders past and present and to any Aboriginal people with us tonight. Now I am going to take a look at the system we have in this country for dealing with complaints about broadcast media. If you didn't like any of Sophie Scott's stories, there are mechanisms for you to complain about them and of course I am going to concentrate on reporting about health and medical stories this evening. I do want to say that given the huge number of minutes of broadcast material that has come through every year, there are relatively few complaints. The system is certainly not broken. Now all broadcasters, all commercial broadcasters, operate under license and they are all subject to codes of conduct. They develop their code, the commercial broadcasters together, they develop their code which is registered and then enforced by the Australian Communications and Media Authority or the organisation I used to lead, and I should say that tonight I am just speaking as a private citizen not for any organisation. And I might also say, that when I say "enforced by the

ACMA” those powers do not include things like the ability to order retraction or corrections or apologies. The code process includes public consultation, so you could all contribute to the development of the broadcasting codes when they are being revised. And they have all things like classification, accuracy and fairness, privacy, harm and offence, and advertising restrictions. Now the ABC develops its own code, which it provides to the ACMA, but which the ACMA has no powers to enforce. If a breach in the ABC code is found by the ACMA, then recommendations can be made to the board, which has been done. And if they are ignored, then we could write to the Minister and then raise matters in parliament. Now for both commercials and the ABC, the system is designed so that viewers who wish to complain can complain first to the broadcaster and then only if they are not happy with the response that they get, does it go to the commonwealth regulator. Now the system is the same for news and current affairs reporting on any topic, but medical and health matters are particularly vexing to viewers and the profession and so they often generate complaints. Lots of other things generate complaints too, like whether a snake – referred to a current affairs broadcaster was really a “large snake” or not, whether a sports person was really at the top of their game or not, as well as more serious things like Israeli–Palestinian conflict. The examples I have chosen to look at tonight are more serious. They might be reports that you remember, but I think that when I play the clips you will certainly remember the subject matter of them, and they did not all offend against the code, so as you look at them reserve your judgement. Before we watch some television, I just want to mention one ABC program in particular which is the very famous Catalyst program on statins, I can’t show it to you for the very good reason that following its own investigation the ABC removed it from its website. Now there were two programs, the ‘Heart of the Matter’ parts 1 and 2, broadcasted in October 2013 – doesn’t seem that long ago. The ABC received 91 code complaints, which means that 91 of the complaints were addressable under the code, there were lots more. These are the standards which applied. They are about accuracy and perspective. I won’t read them out, but they are there for you while I talk about the events that occurred around the Catalyst program. The ABC has a very sophisticated internal investigation system with highly capable people addressing complaints that are sent to it by citizens, and the ABC’s own investigation included that the broadcasts complied with the accuracy obligations in the code – that’s Standard 2.1 and 2.2 there in front of you. The ACMA agreed with the accuracy findings on a number of bases including that some of the matters that were complained about were opinion, and there were some minor omissions and so on. Major controversy was about the undue promotion of an anti-statin view. The ABC concluded that the second broadcast unduly favoured the anti-statin perspective in its presentation of the evidence on the benefits and harms, in breach of Standard 4.5 – which is the one liner there. The ABC took the following steps, at first of course its consumer and audience affairs division conducted the investigation but then the ABC’s Managing Director, Mark Scott at the time, issued a statement about the program which was published on the ABC website and on the Catalyst webpage, and the report of the investigation was also published and as I said the ABC removed the broadcasts from the ABC’s website and they are no longer available to view. So, having done all that, the ABC also concluded that it had done all that was necessary to mitigate the risk of serious threats to individual or public health, which is Standard 7.6 there on the bottom of the screen, and the ACMA agreed that they had done enough. Alright, so let’s look at some commercial programs. This is a report from Channel Nine in Perth.

VIDEO 4 – Tanya and Ben Hammond

Richard: It goes on for another couple of minutes, a much longer story than you usually see in the evening news and it was one of four stories or segments on these events, which provoked complaints about accuracy and the fair representation of viewpoints. And I will just bring up the commercial code provisions. So, these are the commercial TV code provisions about accuracy and

representation of viewpoints. Now there were complaints that the segments were not factually accurate because they did not state how rarely, if ever, it has been shown that ADEM (Acute disseminated encephalomyelitis) can be caused by vaccination, and that the story should have featured an Infectious Diseases Expert, why adults require the whooping cough booster including that newborns rely on adults to be up to date to protect them and the relative risk to babies from whooping cough versus the risk of the alleged vaccination reaction, 1 in 200 babies who catch it will die and so on. Now the various factual statements made in the report included that Mr Hammond contracted ADEM after receiving a vaccination for whooping cough. Now there was no dispute that he became ill after the vaccination and the assertion in the report that the illness was caused by the vaccination was followed as you saw by a statement from the AMA (Australian Medical Association) that the evidence had not established a causal link. We also hear in the report that the risk of contracting ADEM following vaccination for whooping cough is 1 in 80 million, some people will suffer side effects, but the risk of infection is outweighed by the benefits. The broadcaster itself, that is in the introduction by the news reader or by the journalist didn't endorse or corroborate the Hammond's view as to the source of his illness and it would have been understood by viewers, the ACMA thought as contestable rather than an incontrovertible fact. So, the upshot of that is that there was no breach of the accuracy provisions found. But was the material fairly presented? In each of the four segments, either Mr Hammond or his wife made it clear – and we didn't get up to this part – that they were not opposed to vaccination and that they understood why the practice occurs or the incredibly rare nature of the condition that he contracted was described. The assertions concerning vaccination were qualified by the views of health experts as well, so the ACMA was satisfied in the end that viewpoints in the various segments were represented fairly. One of the things that the regulator sometimes struggles with is the existence and the importance and value of tabloid journalism, and there is a matter of style which does not necessarily negate the material that is being presented. Sometimes it is a good thing, it engages large audiences and so on. So, what you see there is a very powerful human-interest story in which, to some in the audience and in the profession, didn't focus sufficiently on the right things or got some things not exactly right. But the upshot of the investigation was that there was no breach. Another interesting point that was raised in the complaints is this concept of false balance – it is not an issue that is explicitly dealt with in the codes and in this case the opinions of the medical and health experts and the opinions of Mr Hammond and his family were accurately reported and we thought appropriately presented, and there were, in fact, in these reports no opinions from anti-vaccination groups or discussion of the views of people in the non-medical community. So, these segments didn't, for example, elevate an anti-vaccination position to or above the level of the position of the medical profession, and so the conclusion was that the ordinary reasonable viewer - the person that the regulator has to consider – would not have been misled as to the safety of immunisation or to demount to any inaccuracy about those things. False balance also came up in the constant stream of complaints to the regulator about the reporting of climate change, in which some commentators of course elevate those whose views that climate change, human caused climate change, is a myth to the same level as the Bureau of Scientific Research. Alright, let's have a look at another one, subject to the same provisions, this time from Channel 7.

VIDEO 5 – Measles/Immunisation

Richard: This is an 11-minute segment, so I am going to leave it there. The speakers are probably familiar to many of you. A complaint was made that this broadcaster was inaccurate and that it fell into the trap of false balance. The excerpt you see at the bottom of the screen shouldn't have referred to "experts" plural, and it elevated Ms Dorey's views to a level of equivalence to Professor McIntyre's. Now, the regulator ended up agreeing with Channel 7 that the description of Ms Dorey

as an expert recognised her close involvement with the issues discussed and her position in the Australian Vaccination Network (AVN), and that she was not presented as and didn't claim to be a medical or scientific expert. Now I appreciate that there is probably a question there about whether you can be an expert in something that isn't true, but that point wasn't prosecuted any further. It also took the view, that is the regulator, that the prominence given to Professor McIntyre's views and the comments of the presenters made it clear that there was no scientific or medical basis to the AVN information. There is a very nice quote from the Professor later on, but it is going to take us 6 minutes to get there. Just as an aside, the network now has a new name, and I can't recall what it is, because the name Australian Vaccination Network was ruled as misleading and deceptive, I can't recall the new name. So, interestingly, perhaps to you, no breaches of any code in that one. But we will have another look at another one also a measles story, this time from Wollongong.

VIDEO 6 – Measles outbreak

Richard: Okay, complaints were made about accuracy and raised the issues of false balance. As I say, complaints about accuracy, this question of false balance again and the risk of causing public panic. Is there really heated discussion about links between vaccination and Autism? One complainant said succinctly that there has been plenty of research and the discussion is now over. Well the ACMA decided that there was heated discussion, however baseless it might be, so no breach there. Have all vaccinations been linked to Autism, as Ms Dorey said? In short, no. The broadcaster offered no submissions on that point and was found to have breached the accuracy provisions of the code. The broadcaster felt that balance in its segment was one of its virtues and that the code required it to present viewpoints fairly. But the ACMA pointed out that there is nothing in the codes requiring that reporting on an outbreak of measles and medical advice on getting vaccinations up to date must be balanced by the inclusion of the views of anti-vaxxers. So, the ACMA found a breach, not of a false balance provision because there is no such thing, but of the accuracy provisions of the code. Because what was described as "false balance" mislead the audience by conveying a higher level of controversy and uncertainty about vaccinations than could be justified by the facts, and that amounts to an accuracy breach. Another code provision was raised and that is that in broadcasting news and current affairs programs, licensee's must not present material in a manner that creates public panic. Now this one traces its history back to the war of the worlds I think, and I don't know that there has ever been a breach, but because of the way it is drafted, it requires the actual existence of public panic. It is not a provision that says you mustn't promote it or the like, so no breach of that one either. Now I will leave vaccinations behind and finish up with what might be everyone's nightmare, an encounter with A Current Affair reporter in disguise with a hidden camera. Now I couldn't find the original report, so what you will see is a clip from Media Watches reporting on these A Current Affair stories (VIDEO 7 – A Current Affair). That's disappointing, it says no playable source, they were working before. Oh well, I will tell you the story. The ACA, the A Current Affair sent a journalist into doctors' surgeries – I think on the Gold Coast – with hidden recording equipment, and the reporter from A Current Affair said to the doctors "Ah geez I feel like a day off, can I have a sick note?" and the doctors provided them. The story was about how scandalous it is that anyone can get a "sickie" from their GP, without really trying. Unsurprisingly, some of the doctors concerned in these stories, complained on accuracy and privacy grounds – and I will just get the privacy code provisions up here. So, first to privacy. The provisions of the code say that in broadcasting news and current affairs programs licensees must not use material relating to a person's personal or private affairs which invades an individual's privacy, other than where there is an identifiable public interest reason for the material to be broadcast. Now in this investigation the findings were that the first doctor – the doctors were not named, by the way, and their faces were pixilated – but the first doctor was identifiable to his patients from the general context of the report,

the general location and including his accent. He had quite a strong Irish – I think – accent. And it was fairly easy for us to conclude that the pixilation was insufficient to deidentify him in those circumstances. There was, however, no personal information about him disclosed, but it was not hard to conclude that his privacy had been invaded given his reasonable expectation of clients that use a consulting room. No doctor would expect their consultations to be listened to, overheard or recorded by others, and any reasonable person would find the filming of a contrived consultation like this to be offensive. The relevance of the offensiveness is in the ACMA's guidelines about the treatment of private matters. So, Channel Nine said that there was a public interest in the broadcast, mainly the cost to the economy and businesses in Australia following the number of "sick days" taken and the ease of access to medical certificates. But to be justified in the public interest, an invasion of privacy must be relevant and proportionate to the public interest issues raised. And the regulator found that the "patient" claimed to have symptoms that were explored by the doctor and further tests or treatment were offered. But there were two doctors who complained, and they provided a great deal of information about what the consultation was really like. One of them went for 16 minutes, further tests were advised, the so called "patient" appeared to be highly stressed, almost in tears and the doctor was concerned about the conditions in his workplace and feared what may occur if he returned and so on. Media Watch asked A Current Affair for the full tape, but they refused to provide it. So, the regulator concluded that the medical certificates were issued for bona fide reasons and it was not satisfied that there was any identifiable public interest reason for the broadcast. If anything, the surreptitious filming of medical consultations, the inaccurate descriptions of those consultations and the editing of the footage to achieve a false affect were contrary to the public interest. That is actually very strong language for a government regulator. Sadly, you would have seen, if you could have, from the Media Watch segment that this is a story which is recycled regularly, every few years they run it again, at least to my knowledge they haven't done it since this finding. At least, if they have, it has not been complained about. Thank you for listening, I am looking forward to answering questions with Sophie.

Scott: Thank you Richard and thank you Sophie - Sophie do you want to come up here? And thanks to Sophie's husband Phil for doing all the IT – except for the last Media Watch thing which – thank god for Media Watch. So, we do have time for questions, Kathryn will have a microphone so please ask either of the speakers any questions you may have. In so doing, could you please announce your name, thank you.

Q&A

Q - Prof Richard Jones: I'd like to ask you if genetic testing can accurately detect all devastating, or potentially devastating genetic diseases?

A - Sophie Scott: Well, the test that is currently available can detect a number of the most common genetic diseases. There are more expansive tests, but they are not as widely available. This pilot trial that the government is funding will roll out the test, I think it picks up the 6-10 most common genetic conditions. But as I said, there are more expansive tests, but they are not as commonly available. But the idea is that they will see how effective this pilot study is, with that smaller range of tests, and then potentially expand it to the more expansive tests down the track.

Q – Dr Julian Walter: So, I just want to know – how do you balance both matters that are potentially very important to get across but might have no public interest, and the reverse where that issue is something that might be fit for consumerism but not necessarily a big issue. How do you weigh those up?

A – Sophie Scott: Well, I often try to do stories – I guess it’s both. If it is a condition that affects a lot of people, say asthma, breast cancer, diabetes, we cover those issues quite regularly. So, for us to do a story it would need to be quite a significant development, for us to do something – say a new asthma treatment or new statistics about the incidence of diabetes – because we do cover those issues quite a lot. So, I guess what I try to do with ABC is also offer an alternative to the viewers or the readers who might be looking at commercial television or reading newspapers, so I do try to find stories that our listeners and readers may not have seen elsewhere. So, we do tend to do stories - so for example the genetic testing and SMA, that doesn’t affect a huge number of people, but it has the potential to be devastating, as you saw from that video. So, I guess it is a balancing act, we don’t really sort of go out and – I mean A Current Affair and commercial media do definitely, as Richard alluded to, tend to do the same sorts of stories over and over, because they know they will be popular. But, from my point of view, I want to do a story that people are interested in and it really doesn’t matter what the topic is, as long as it is scientifically significant, robust, there is a strong personal narrative that we can tell, and it is going to make the viewers and readers care about that story. So that is the most important thing, they are the most important factors that I think about when I am weighing up whether to do a story or not.

Q – Dr Andrew Bean: Sophie, I was interested to see that how quickly the government responded to those two stories and again - and now we see that the Prime Minister has been brought in for a story on aged care. When you are preparing your subjects, do you involve the people that you want to respond right from the beginning of those stories?

A – Sophie Scott: It sort of varies, I think with that story – with our genetic testing story – the government, and Greg Hunt’s office, was well aware of the issue before we - I mean the hundred million dollars that they allocated for the Million Minds Initiative was something that the government had been thinking about for a while - but certainly our story prompted quicker action for them to announce the fact that they were going to do this pilot study and call it ‘McKenzie’s Mission.’ And the good thing is that since that story, the government has really involved the family in a lot of the events and the roll out of this program, which has been really gratifying. So, in terms of whether we talk to governments or talk to experts from the beginning, it is a bit of a balancing act, I mean the Federal government would have been well aware that the Four Corners on aged care was coming, they probably would have been presented with some of the material in advance. And it was arguable whether if it was a bit of a spoiler to announce, on their part, to announce the Royal Commission the day before, when they probably could have announced it the day after. Which they have – for example when Four Corners did the Don Dale Indigenous Kid’s story and then they announced the Royal Commission two days later. So, we do tend to work closely with experts and work closely with decision makers and the people that are going to effect the change that we want to see. Whereas, we don’t work hand in hand with them, the realisation is that you need those people on board to get the change that you want to see to improve public health and public policy.

Q – Dr Philip Truskett: Richard, I want to ask a question about rebuttal or publicity, I mean we saw significance there of really concerning information that was misrepresented and you wrote a very strong letter. But how do you get it out to the public, I mean surely there has to be some sort of link in the loop where by people can be informed that the information they have been given is misleading.

A – Richard Bean: Well, unfortunately, as I mentioned, the code system doesn’t allow for ordering such things, corrections for example. So that rarely occurs. We have been, I say “we” because when I was asked to do this I was still there - the ACMA has, in the past, been successful in persuading broadcasters to publish additional material, but there is no power to do so. So the only power,

really, in this case – for the regulator – is to publish, as it does, its findings and hope that someone notices. But that is a pretty weak tool and where there is – for example in the case of the GP’s in the final story, where there is a direct personal impact, sometimes people really do want opportunity to correct the record. And no doubt, where it is missing information, those who are concerned in public policy, in public health, would very much like to correct that. I suspect they have a better chance of getting on, if they wish to, and ring up and say “Hey, you need to tell the other side of the story. Can we come on sunrise tomorrow?” You do see that reasonably often. But there is no formal mechanism.

Sophie Scott: Can I just add a little bit about ABC’s approach to making corrections and things like that? So, if audience in current affairs and our internal processes deem that something wasn’t represented correctly or needed to be adjusted for accuracy, you will often see what they call an “editor’s note.” So, it is just at the bottom of the story and it might say something along the lines of “this story has been edited to add in certain information that might have been left out.” So, there are – that way it appears where the story is, so you can see straight away. There is also a page that appears at the bottom of our news website which you can click through to, which basically goes – has a list of all the corrections that the ABC has decided they needed to make, either to broadcasted material or online material. It is a page that you don’t want to end up on basically, as an ABC journalist, but it does happen occasionally.

Richard Bean: I might just add that the ABC is excellent at doing that. There is a, though, amongst journalists - I know, I don’t know if it is particularly journalists in commercial broadcasting or in print - a very lively debate about the horrors of being forced to correct something, and there is a view that being upfront and correcting something ought to improve your credibility with your audience. But there is also a very strong view that, particularly on the nightly news on commercial television, that being forced to publish corrections would destroy their credibility with the audience and they have successfully fought any attempt to require them to do that.

Q – Dr Margaret Daley: Just a question for Richard following on from that, does that mean the regulator can’t enforce any penalties?

A – Richard Bean: There are actions that can be taken, yes, there is a sort of graduated system. The most common thing is that the publisher agrees to remove something or fix something in some way and to train its people so that it doesn’t happen again. The next level up is that – and this will sound, I mean it is, to people not involved in how government regulation works, this is going to sound pretty weak – the next step is a formal direction to comply with the code, as if you didn’t have to already. But that is a step along the way to imposing a condition on the licence and that is when it really gets serious. So, these broadcasters – of course there is no regulation of print journalism, there is no government regulation of print journalism at all – but for broadcasters you have to have a licence and there are conditions on the licence and the ACMA has the power to impose additional conditions and then if you breach licence conditions, then theoretically you can have your licence taken away. It has never happened. But the imposition of licence conditions has occurred, the most famous ones are to do with Kyle Sandilands and various appalling tirades that he has delivered on his program – not, I think, for some years – but certainly a licence condition was imposed on his previously employer 2Day FM in relation to his behaviour. And that, perhaps unsurprisingly, is taken very seriously – and I should say that the broadcasters will fight to the nail with the regulator to avoid an adverse finding, even if there are no actual formal consequences. So, it doesn’t necessarily follow that the lack of teeth means a lack of effectiveness.

Q - Dr Julian Parmegiani: With the arrival of social media, and the statistics of the number of young people who seem to get their news from Facebook and other sources, do you feel the relevance of regulations decreases as the years go by? Is there a new way to address that such as through social media?

A – Richard Bean: I think this is probably a question for both of us, but I will just go first and say that, how to regulate those organisations is a constant headache and one with which governments all over the world are grappling. And the answer is that you pretty much can't. So, what is being done is that schemes are being developed in order to inveigle them into cooperating and being good citizens. And they say they wish to be, and to a certain extent they are, so we all see now that they are making efforts to – they have, for quite some time, made some effort in relation to online bullying, the dissemination of child abuse material and so on, and there are some laws in relation to some of the very worst materials of that kind. But there are cooperative schemes that are reasonably effective, and we all see that they now say they are making efforts in relation to news reporting as well. But it is – there is a jurisdictional problem as well, of course they are not Australian companies and because they are now largely American companies, the idea of state intervention in the publication material is completely foreign to them. And while I was a regulator, we were negotiating with Facebook and so on about, in particular about material harmful to children, and they pretty much said to me “Well, you know, you guys are from another planet, but we understand it and we will try and work with you,” but it really is alien to them.

Sophie Scott: I might just add, I think if Facebook, if their focus was on news – and you are right about teenagers, Phil and I have got four boys aged between 20 and 24, and they don't watch the news, they don't listen to the radio, they get everything from Facebook – but Facebook, their algorithm used to focus on news, so it would come up in your feed, prioritised news stories in your feed. I think after all the “fake news” that has been around, certainly it has been shown that there has been a lot of “fake news” particularly in the lead up to the election of Donald Trump, that Facebook has now changed their algorithm. So, news stories do not appear as prominently on Facebook on your feed, in anyone's feed. And I think that is a sort of recognition from Facebook themselves that they were getting it wrong and that was having consequences. That has also made it more difficult though, on the flip side of that, it has made it more difficult for media organisations who depend on the view pools of social media to get their stories out, particularly to those younger audiences. Those videos that I showed you in my stories, they were social media videos, they didn't go to air, they weren't broadcast. The images from them appeared in television stories, but those particular videos that I showed you were all just made for social media. Some of the videos that we used to make like that for social media and Facebook, a video that I did with a colleague about an asthma medication that was causing serious psychiatric side effects in children, had more than a million views on Facebook. Now, that just wouldn't happen now, because of the change to the algorithm. So, in a lot of ways it is a good thing because not prioritising news means you are less likely to get “fake news,” but in terms of getting a message out about important stories, it is actually now a lot harder for us to reach those younger audiences in really big numbers. So, there is a bit of a give and a take there.

Scott Chapman: Thank you Sophie and thank you Richard, we are going to end it there if that is alright. We can have more questions when we have the red wine algorithm. So, we will end it there. I just want to say on behalf of the society, both to Sophie and Richard, thank you very very much for your time tonight, absolutely fascinating, so thank you again.

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