

INQUIRY INTO BROADCAST OF PROCEEDINGS RESOLUTION

Organisation: Office of the Clerk of the House of Representatives, New Zealand

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The Director
Procedure Committee
Parliament House
Macquarie Street
Sydney, NSW 2000

Broadcasting and Social Media – New Zealand Policies and Experiences

Thank you for the opportunity to provide a submission to the committee's inquiry into the New South Wales Legislative Council's broadcasting resolution. In particular, you asked about our experiences with members posting extracts and images on social media, acclimatising witnesses to webcasting of hearings, sanctions available to ensure the compliance of members of the public, and any incidents or experiences that have led us to update our broadcasting rules and practices.

My submission:

1. Details our established broadcasting rules and how they operate in the context of the House;
2. Discusses how members use broadcasting on social media and how Parliament responds;
3. Discusses the use and implications of social media as an archive of parliamentary data;
4. Describes established practice for the webcasting of public committee hearings and its effect on witnesses.

Specific incidents or experiences that have informed practice or led to changes are discussed in the appropriate section.

1. Broadcasting the House

In New Zealand, radio and television broadcasting of the House are governed by Standing Order 46 and Appendix D of the Standing Orders. These provisions are attached. There are few specific provisions for radio broadcasting, but Appendix D includes various specific instructions for television broadcasting, including provisions that specify the types of shots that may be broadcast, and rules around the ways such coverage may be used. For example, shots unrelated to proceedings, such as interruptions from the gallery, may not be broadcast; and material from the broadcast may not be used for political advertising or

election campaigning, except with permission from all members shown. These rules apply both to the official broadcast, run by Parliament, and to other media outlets filming from the press gallery. For example, where a protest occurs in the gallery, neither the official broadcast nor any external broadcaster with permission to film in the Chamber should broadcast it.

These rules have not been significantly updated since 2007, when the New Zealand Parliament began full television broadcasting, with one exception. In 2015, the Privileges Committee, in a report on the use of social media to cover parliamentary proceedings, recommended that Standing Orders be revised to remove a clause in Appendix D that banned the use of official television coverage for “satire, ridicule, or denigration”. The Privileges Committee felt that the rule, which had never been used, risked “making Parliament seem out of touch and wary of criticism”. It noted that the House could already treat “false or misleading” accounts of proceedings as a contempt, which could deal with any seriously damaging use of official coverage whether or not it was satirical. The Privileges Committee also recommended a more comprehensive review of broadcasting rules “to provide viewers with a truer picture of what takes place in the House”.

The 2017 review of Standing Orders by the Standing Orders Committee accepted the Privileges Committee’s recommendation and removed the rule prohibiting satirical use of official footage. However, it was unable to reach agreement about updating the broadcasting rules, and recommended instead that the next Standing Orders Committee undertake a thorough review of broadcasting. (New Zealand establishes a Standing Orders Committee every term of Parliament to review our Standing Orders.)

Despite this, recent practice has seen a more liberal interpretation of the rules. Particularly, treatment of contributions from the galleries has changed. For example, when an official visitor to the House is acknowledged with applause, the broadcast now shows the visitors in the gallery where historically it would have shown members applauding. Another example is when members of the public acknowledge the passage of Treaty of Waitangi settlement legislation with a waiata (song). Permission for a waiata is now formally granted and the broadcast treats it as a part of proceedings, filming the galleries.

This flexibility enhances the broadcast, makes it more engaging, and supports positive promotion of Parliament. The Serjeant-at-Arms, who is responsible for ensuring that the broadcast adheres to Standing Orders, interprets the application of Appendix D in conjunction with the Speaker. Broadcasting rules are more likely to be relaxed for official events or where permission has been sought from the Speaker. Where official permission has not been granted, the Serjeant-at-Arms responds to cues in the Chamber from the presiding officer about what is appropriate to broadcast – described as “looking for the nod”.

New Zealand’s chief experience from broadcasting parliament is that precise and prescriptive broadcasting rules have not always anticipated what makes good coverage, especially as members become accustomed to being broadcast and demand the best coverage possible. Such rules also struggle to keep up with advances in technology, particularly in the way in which people transmit information.

Sanctions

The main tool available to Parliament to sanction the misuse of House broadcast material is access. The Serjeant-at-Arms is entitled to intervene if a broadcaster is not following the rules, and broadcasters who fail to follow the rules outlined in Appendix D can have their access revoked by the Speaker. As an example, in 2011 the *New Zealand Herald* was banned from the gallery for 10 days after it published a photograph of a man attempting to jump from the gallery into the Chamber, since Appendix D bans the broadcasting of disturbances in the gallery.

Misuse of official footage or the dissemination of original broadcasts that do not follow Appendix D could be treated as a contempt. A determination of contempt would require a referral by the Speaker to the Privileges Committee, followed by an investigation by and report from the committee recommending that the House find the relevant person in contempt. However, a matter of privilege is not likely to be pursued where there is no serious threat to the functioning or authority of the House.

2. Members' use of social media

Social media has been widely adopted by MPs and in 2015 the Privileges Committee inquired into the use of it to report on parliamentary proceedings. It found that social media presented unique opportunities for members to share news and information with the public and bring Parliament to the attention of a larger audience, and therefore recommended that members be neither discouraged from nor restricted in their use of social media.

Instead, the Privileges Committee recommended that the Speaker issue guidance about members' use of social media. Rather than developing new rules, it based this guidance on existing rules and principles about members' behaviour. It sought to clarify the status of members' social media activities, emphasising to members that social media posts made while they are sitting in the Chamber are not part of parliamentary proceedings and therefore unlikely to be protected by privilege. It also offered guidance for members' use of social media without undue restrictions.

Members are free to use electronic devices in the Chamber as long as it is not disruptive to the business of the House. The Privileges Committee affirmed that this rule included making posts to social media. However, it clarified that members should not generally use their electronic devices to film or photograph from the floor of the House, particularly without the permission of the members concerned. In its view, this use of electronic devices constituted a disruption to the business of the House, noting, "We are concerned that if members are aware that they could be subject to candid filming or photography at any time, there may be negative effects on their behaviour or how they participate in proceedings."

On the other hand, the Privileges Committee recognised that there are some occasions in the House that are of special significance, such as maiden and valedictory speeches. It suggested that the Speaker authorise members to photograph or film from the floor of the House in those circumstances, and designate other events in the House as being of special significance, thereby permitting filming and photography. This guidance has been adopted as a broad principle by the Serjeant-at-Arms, and members are generally permitted to film or photograph such occasions.

However, there is an increasing tendency for members to informally film, photograph, or stream live from the floor without the permission of the Speaker. This is particularly common among members who have entered Parliament more recently. It is also common for members to make use of official broadcasts of the House for electioneering purposes. Members and parties frequently share videos or clips of their own speeches on social media. This is consistent with Appendix D rules, as it is permissible to use broadcast footage for political advertising or election campaigning, with the permission of all members shown. However, there have been some instances of broadcast footage being used to make advertisements to attack other parties. It is unlikely that the makers of the advertisement have the permission of the members shown and so it may contravene the rules in Appendix D.

3. Hosting parliamentary footage on social media

House footage is streamed live on the Parliament website and archived on the social media network Vimeo, having switched from YouTube earlier in 2019 because YouTube was unable to accommodate the volume of uploads required. We particularly ran into issues when the House went into an extended sitting or urgency. YouTube could cover a standard sitting day but could not handle the requirements for an extended day, and consequently that material – which, in urgency, could be material with a high level of public interest – would end up being uploaded later. Videos are still available embedded on our website and it is vital that material be uploaded in a consistent and timely manner.

Public select committee hearings are streamed live on Facebook and archived on individual committee Facebook pages. Hosting hearings on Facebook is also dictated by practicality. A pilot streaming programme via the Parliament website was popular and successful but discontinued due to lack of funding. Streaming was resumed in 2017 when advancing technologies meant hearings could be affordably and easily streamed and archived on Facebook. Streaming committee hearings is particularly valuable because public committee hearings are otherwise inaccessible to those who live outside Wellington or who are unable to attend public hearings, so streaming significantly expands access to parliamentary processes.

Public commentary, participation, and engagement

Comments are enabled on both House and committee videos. Allowing comments increases public engagement, but active moderation is required in order to maintain a space that is the best representation of Parliament. This has also required additional staff resourcing.

For some legislation and some committees, informal online communities have built up. These communities can vary in character according to the item of business, with people interested in some business items having a strong and self-policing set of social standards and other groups not being interested in such self-policing. For example, the Justice Committee recently spent many months considering the End of Life Choice Bill, which seeks to provide for voluntary euthanasia for those with terminal illnesses. The long period of consideration and large numbers of interested people meant that many of the same people engaged with each livestream, which led to a developing sense of community that was in some ways self-policing in terms of behaviour. However, that community does not attach to other committees or even to other items of business before the Justice Committee.

Monitoring and moderating streams, therefore, requires resourcing, but can produce an engaging and engaged community. It has been difficult to decide to what extent parliamentary staff should engage with and moderate commentary on streams. For example, should staff answer questions or participate in conversation? It is easy to decide to remove abusive comments, but difficult to decide whether sincerely held but strong views should remain and whether staff should engage with the commenters.

Owning our data versus sharing our data

There is an ongoing tension in providing video content between owning our own data and going where people are, and where they can best be reached. Due to low barriers to entry, social media can be a good tool to engage with disenfranchised groups, whom Parliament often struggles to reach. For example, women and indigenous peoples have a higher degree of Facebook participation.

However, there are ongoing concerns about hosting parliamentary footage on private websites outside New Zealand and therefore being subject to those websites' terms and conditions. The footage is hosted on these sites because it is the most cost-effective strategy for my Office. Budget bids to the government for funds to livestream select committees have not been successful to date. Our hosting arrangements are dictated by practical concerns currently but I anticipate that, in the future, we may be able to build infrastructure to control our own uploads and host our own data while mirroring or sharing content to social media.

4. Streaming select committee hearings

Streaming public select committee hearings live to Facebook is the New Zealand Parliament's newest form of 'broadcasting'. At present, there are no explicit Standing Orders that govern select committee streaming and the Speaker has not made any rulings on it. However, the Business Committee has agreed that:

1. Only public sessions will be streamed
2. A committee may resolve not to live stream a public session
3. The Clerk's staff will control the livestream

No effort has been made to have streaming comply with existing broadcasting rules for the House as appearing in Appendix D, particularly since they were developed explicitly with television broadcasting of a debating chamber in mind. The Standing Orders Committee may consider formalising the role of streaming in its triennial review of Standing Orders.

Practicalities of streaming

Streaming public hearings is a new function for the secretariat of each committee. Committee staff moderate discussion and content on the stream and monitor and troubleshoot stream quality. This can be challenging depending on what is happening in the meeting and the level of engagement with the stream and has been reduced by greater involvement of the social media team and a technical assistant. My Office recognises the necessity of responsible broadcasting. This includes warning participants that they will be livestreamed, but also included a responsibility to provide notification at the top of the stream if the committee was hearing evidence on sensitive subjects such as suicide or family and

sexual violence, and the provision of standard “Where to get help” contact details when those issues came up, whether or not they were expected.

Effects of streaming on witnesses and members

A concern raised at the time of the initial streaming pilot was that it would have a chilling effect on witnesses. However, our experiences since suggest that streaming public hearings has not affected witnesses and submitters, including vulnerable witnesses.

Two steps are taken to protect people appearing before the committee. First, all those giving public evidence are contacted to be advised that their evidence may be livestreamed to Facebook. We have not found that people drop out after receiving this notification. Secondly, we offer members of the public who are giving evidence the option to request a halt to livestreaming. Committee members tend to be happy to accommodate these requests. For example, two recent cases of submitters who asked not to be streamed were a trans woman who was worried that having her appearance streamed would damage her professional life, and Chinese pro-democracy activists who preferred not to appear on video. Committee clerks agree that they have not seen evidence of a chilling effect on vulnerable witnesses, who, after all, were already committing to being heard in public. Witnesses also often like the opportunity to share videos of their appearance on social media or with family and friends.

Some submitters appearing on behalf of public sector organisations who have a duty to appear before the committee have also asked not to be streamed. However, committees have chosen not to accommodate those requests. Since only public hearings are streamed, the view of committees is that public organisations who have a duty to appear should be subject to the same level of scrutiny and transparency across the board. Many public sector organisations have found streaming to be helpful. Live streaming of hearings let officials get much better access to information from those hearings. Sometimes, advisors who would usually have had to travel with a committee when it heard evidence in other cities were able to follow hearings via the streams instead, resulting in substantial cost and time savings.

My staff have not observed a change in members’ behaviour, as a result of streaming. It is possible that routine broadcasting of the House and an increasing expectation that public events of any kind can be streamed, videoed or photographed underlie members’ comfort with being streamed. In at least a few cases, members have engaged with streaming by asking questions in a hearing that were suggested in the comments on the stream, which is certainly an engaging way for the public to feel truly involved with committee hearings.

I trust this will assist the Legislative Council in preparing a broadcasting resolution that fits the needs of a modern, accessible, engaged Parliament. I look forward to hearing the outcome of the inquiry. Please feel free to contact me if I can provide any further assistance to the committee.

David Wilson
Clerk of the House of Representatives

APPENDIX: Broadcasting rules in New Zealand's Standing Orders

APPENDIX D

RULES FOR FILMING AND CONDITIONS FOR USE OF OFFICIAL TELEVISION COVERAGE

PART A: RULES FOR FILMING

- (1) A provider of official television coverage of the House must comply with the following rules:
1. The cameras will cover the member who has been called to speak until the member's speech is finished or the member's call is terminated by the Speaker. Coverage will normally be medium range, head and shoulders. The director may choose to vary the camera angle to add interest to the coverage. Switching between such shots should be done at an appropriate point in the speech.
 2. The default shot will be on the Speaker or presiding officer, including the arrival of the Speaker's procession, or a wide-angle shot of the Chamber.
 3. The television director may choose other shots to reflect the business transacted, such as a wide-angle shot of the Chamber or, during oral questions, a reaction shot of the Minister being asked a question or of a member listening to the reply to a question.
 4. The television director may use a wide-angle shot of the Chamber as a continuity shot, for instance, at the end of oral questions or when the House is going into committee.
 5. Generally, interjections are not covered. But if the member speaking engages with the interjector, the interjector's reaction can be filmed.
 6. Officials (Clerks, Serjeant-at-Arms) should be shown when they are participating in the business of the House by making announcements, calling party votes, or carrying the Mace.
 7. While a personal vote is in progress, a graphic to this effect may be shown in place of live coverage, or a static wide-angle shot of the Chamber may be used, provided that this coverage does not seek to identify how individual members are voting. Any spoken proceedings that occur during a personal vote (such as a point of order) will be covered, subject to the usual rules.
 8. Shots unrelated to the proceedings are not permitted, that is, interruptions from the gallery and business occurring outside the House. No close-up shots are permitted of members' actions and interactions that are unrelated to proceedings.
 9. In case of general disorder on the floor of the House, coverage will revert to the Speaker or presiding officer.

10. During an interruption to proceedings such as a prolonged disturbance from the gallery, the coverage will be of the Speaker or presiding officer, with sound from only the Speaker's microphone. Coverage from the Chamber should continue, unless the Speaker or presiding officer indicates otherwise, by either suspending or adjourning the House, or specifically directing that coverage should cease. Television coverage recommences when the House resumes or at the direction of the Speaker or presiding officer.
 11. Coverage ceases as soon as the Speaker or presiding officer announces that the House stands adjourned or the Speaker or presiding officer leaves the chair for the suspension of a sitting.
- (2) These rules apply also to any other filming from the gallery.
 - (3) The Serjeant-at-Arms will intervene if it becomes apparent that cameras are filming matters not within the rules. Broadcasters who offend the rules may have their privilege of filming in the Chamber withdrawn.

PART B: CONDITIONS FOR USE OF OFFICIAL TELEVISION COVERAGE

- (1) Official television coverage of the House is made available on the following conditions:
 1. Any broadcast or rebroadcast of coverage must comply with the broadcaster's legal obligations.
 2. Coverage of proceedings must not be used in any medium for—
 - (a) political advertising or election campaigning (except with the permission of all members shown);
 - (b) commercial sponsorship or commercial advertising.
 3. Reports that use extracts of coverage of proceedings and purport to be summaries must be fair and accurate.
- (2) Breach of these conditions may result in a loss of access to official television coverage, and may be treated as a contempt and proceeded against accordingly.