Guidance Note

Factual Drama

Issued: 11 April 2011

Status of Guidance Note
This Guidance Note, authorised by the Managing Director, is provided to assist interpretation of the Editorial Policies to which the Guidance Note relates. Guidance notes provide advice to assist in the interpretation of the Editorial Policies, which contain the standards enforceable under the ABC’s internal management processes and under the ABC’s complaints handling procedures.

It is expected that staff will normally act in accordance with the advice contained in Guidance Notes. In a given situation there may be good reasons to depart from the advice. This is permissible so long as the standards of the Editorial Policies are met. In such situations, the matter should ordinarily be referred upwards. Any mandatory referrals specified in Guidance Notes must be complied with.

Key Editorial Standards
Excerpts of key editorial standards relevant to this Guidance Note are set out below. Other editorial standards may also be relevant, depending on the specific circumstances applying in each case.

2 Accuracy
2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.
2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

4 Impartiality and diversity of perspectives
4.1. Gather and present information with due impartiality.

Mandatory referrals
Any decision to screen a factual drama to key people who are portrayed in the content prior to broadcast or publication should be upward referred to an appropriately senior ABC person designated for the purpose.

When a person refuses to co-operate with the production of a factual drama in which they are portrayed and their role is significant or they are a child, any decision to proceed with production must be upward referred to an appropriately senior ABC person designated for the purpose.
**Scope of this guidance note**

This Guidance Note applies to ABC produced and commissioned factual drama in which a creative process of interpreting and fictionalising real people and contemporary or historical events has occurred. It also applies to the factual drama aspects of scenario-based interactive games and dramatic works (such as *Bluebird*).

In terms of application to acquired material, the majority of which is non-Australian, the key consideration is the assessment of the reputation and bona fides of the supplier and the decision to purchase.

This Guidance Note does not apply to documentary or factual content that is wholly or partly dramatised. Dramatised documentaries seek to reconstruct or illustrate actual events and people’s lives as part of a factual program that follows factual principles and construction.

The Note on interpretation in the Editorial Policies emphasises that editorial standards need to be applied having a regard to the nature of the content and in a way that does not unduly constrain artistic expression.

**Introduction**

The ABC has a key role to reflect Australian social, cultural and political life from a contemporary and historical point of view through the broadcast and publication of drama content.

Factual drama is a powerful form of story-telling largely based on the lives of real people and real events. The form, while primarily fiction, may contain real archival elements, such as footage, photographs or sound recordings. While the fictionalisation of reality creates the factual drama genre, fictionalisation may also be required for the practicality of duration or legal reasons such as the protection of children or victims of crime.

The extent of the fictionalisation in a factual drama can vary. Some programs are based on a true story where all of the key characters portrayed are or were real people (such as *Curtin*); while others combine real people with invented elements to create fictionalised characters (such as *Sisters of War*). Some dramas take key events of history where the accuracy of the facts and their contextual presentation are central to the story. Others take a particular view of a period of history, which may be contested to a greater or lesser extent. Others may give one person’s version of a contested event where the facts may be at issue.

In some factual drama, while the research is based on real stories further program development has substantially fictionalised both characters and events to the point where the real people on which the characters were based are unrecognisable. In these instances, the veracity of the portrayal of events or people is not central to the drama (such as *Rake*). This process may have occurred for dramatic reasons, or to lessen the risk of complaints of unfair portrayal by real people or of legal action.
Accuracy
We need to ensure that facts presented as part of a factual drama are based on a substantial and well-sourced body of evidence. Inaccuracies can be misconstrued as partiality or a lack of fairness to a person or organisation (see Impartiality and Consultation with those portrayed below).

There is a proportionate requirement for accuracy based on the aims of the drama itself: to the extent that the drama seeks to represent reality it will need to provide a factual basis for that content. To the extent that the drama is inspired by reality but largely fictionalised, it will not need to provide the same level of evidence.

Sensitivities will be heightened when a drama has as its central narrative the portrayal of living people, people with living close relatives and/or recent contentious events.

While based to some extent on fact, factual drama is a work of fiction. It is inevitable that the creative realisation of some dramatic elements such as characterisation, dialogue and setting will be fictional. In addition, there are elements of drama that are not required to meet standards of accuracy, such as locations, props, costumes, and casting. The most important requirement is that these elements do not distort the facts or the portrayal of people or events in a significant and material way.

In relation to acquired content, research will be undertaken to determine if questions have been raised about any matter of accuracy in relation to previous broadcast or publication. Where necessary, content may need to be amended, particularly if additional information has come to light since the material was originally produced, broadcast or published (see Informing Audiences below).

Impartiality
In broadcasting or publishing factual drama, we must maintain the trust of the community while acknowledging that the form is fiction, not documentary. In protecting the ABC’s independence and integrity, we need to ensure that the ABC is not perceived as taking an editorial stance on any significant matter of contention that remains the subject of current debate.

In assessing impartiality, the following criteria need to be considered --

1. What is the subject of the factual drama? To what degree is it contentious?
   a. What event is portrayed? Is it historical or contemporary?
   b. If it is historical, are the events still contentious?
   c. If the events are largely unknown to the public, could the presentation of the content create contention or public debate? (e.g. Rabbit Proof Fence)
   d. Who are the featured characters? Are they real people? Are they still living or do they have close family members still living?
   e. How contentious is their portrayal? Are they still participants in public life in ways that are likely to be affected by their portrayal in this drama?

2. What is the nature of the factual drama?
   a. Is it told from a particular point of view? If so, does it distort that point of view to the extent that it is no longer factual?
b. Is it likely that this portrayal will influence the ability of the audience to make up their mind about the matter of contention?

3. If the subject is contentious, what is the range of principal relevant perspectives on the subject?

4. Having regard to the public importance of the matter of contention and the extent to which it is the subject of current debate –
   a. To what extent has the ABC already provided opportunity for other relevant perspectives on the matter to be presented (e.g. news, current affairs, documentary, or user-generated content)?
   b. If the ABC has not provided such opportunity, what timeframe would be appropriate to provide opportunities for the principal relevant perspectives to be expressed?
   c. Given the convergent nature of ABC content and audience consumption, what platform would be most appropriate?

5. What are the circumstances in which the factual drama was made and presented? For example, has the impact of the scheduling of the drama been taken into consideration in terms of its impact on the people portrayed? Or the anniversary of an event?

6. What are the audience’s likely expectations of the content? For example, will the signpost provide a sufficient level of information to direct the audiences’ expectations? What media, such as published material or pre-publicity, may have influenced these expectations? And in what direction?

**Consultation with those portrayed**

The ABC needs to ensure that it deals appropriately with those who are directly affected by ABC content. Such people would include those whose lives (or whose family members’ lives) are portrayed in a factual drama, particularly if the dramatised character carries the name of the actual person.

Whenever appropriate, particularly when their role is significant, real people portrayed in a factual drama, or their family members, should be notified in advance and, where possible, their co-operation secured.

While this process may be undertaken by the independent producer, it is the ABC’s responsibility to ensure that this notification occurs and that it is carried out with fairness and integrity. In such cases, the process would be best managed by the ABC (Commissioning Editor, Editorial Policy & Legal) working collaboratively with the independent production company.

Many productions will already have some key featured people co-operating in the development of the drama and these requests for co-operation are unlikely to be controversial.

In the case where co-operation has been secured, it would be appropriate to inform these people of the program’s broadcast or publication details. Screening the content to key featured people prior to broadcast or publication may be appropriate as a matter of courtesy. However such a decision should be upward referred, given the potential risk to ABC independence and integrity.
Cooperation is likely to be an issue if the real person is portrayed negatively in the drama, for example if they have been convicted of an offence or have been publically disgraced. In these cases, it is not likely that cooperation will be secured. However, at the appropriate stage in production, and where appropriate, those people should be informed about the relevant details of broadcast or publication.

If a person refuses to co-operate, an assessment needs to be made of their character’s role in the drama in order for production to proceed. If their role is significant or they are a child, the following criteria would need to be considered and the matter referred to the relevant director before a commitment can be made to the production --

- the fairness of the portrayal,
- the extent to which the portrayal is based on a substantial and well-sourced body of evidence, and
- the extent to which the person’s portrayal and the story being told in the factual drama is in the public interest.

If co-operation is not forthcoming, another approach may be to alter the script to exclude that character from the drama, or to further fictionalise the character by, for example, combining a number of characters into one. If that is not possible, and the ABC wants to proceed, this issue must be upward referred to the relevant director before further commitment is made to the production.

**Informing audiences**

The information provided to audiences about content significantly impacts perception. In particular, information provided prior or simultaneously to a program’s broadcast or online publication provides this context. Usually called a signpost such information can communicate the nature of the content, to what extent it was based on reality, whether it tells a particular story or stories, or whether it is told from a particular point of view.

Given a factual drama may be told from a particular point of view or be based on a particular work such as a biography or autobiography, a perception may arise that the ABC has editorialised a real person’s story or a real event. To avoid such a perception, a signpost may indicate the origin of the drama’s perspective.

Signposts should be tailored to the requirements of each program; the following examples may prove helpful --

- For this dramatisation, some events have been simplified and certain characters and scenes created but what follows reflects documented facts.

- This program is based on a true story, with some events, scenes and characters created or changed for dramatic effect.

- Although inspired by a true story the events and characters portrayed here are entirely fictional/have been fictionalised.
• This is the story of [insert person’s name]. Certain events and characters have been created or changed for dramatic effect.

• The program which follows could not have been made without the co-operation of those who were there. However the characters depicted are fictional.

• This drama [insert title] dramatises a nine year period in the history of [insert person’s name]. The background to events portrayed has been thoroughly researched. Characters and their stories are fictitious.

Program publicity and marketing materials should be consistent with the core information contained in a program’s signpost. Information about offering audiences other perspectives on contentious subject matter such as details of additional content may also be communicated to audiences. All such content needs to coalesce with material communicated in a program’s signpost to ensure integrity and consistency.

Acquired factual drama should be reviewed and a decision made as to whether a signpost is required or whether a signpost supplied as part of the content may require amending (see Accuracy section above).

Other fact-based information may be included at the end of content (e.g. as part of end credits) or as part of an online presence, to inform the audience about what happened to the real people portrayed or how events changed or altered the lives of those portrayed. This information must have a high level of factual accuracy.

**Legal issues**

Various legal issues may arise in the development and production of a factual drama including:

• Consent
• Defamation
• Contempt of Court
• Privacy

ABC Legal should be consulted as soon as is appropriate for detailed advice.