

**ABC AUDIENCE AND CONSUMER AFFAIRS
INVESTIGATION REPORT**

***Lateline* story *Analysing The Australian Paradox: experts speak out about the role of sugar in our diets* and the ABC News online report *Australian Paradox under fire: Health experts hit out at Sydney Uni sugar study*.**

13 April 2016

Complaint

Lateline breached the ABC's editorial standards for impartiality with its exclusive, critical focus on the Australian Paradox 2011 paper and failing to recognise updated and new data that supports the authors conclusions in that study. *Lateline* unduly favoured the perspective of that study's most prominent critic and adopted and promoted his critical assessment of the study. *Lateline* unduly favoured the perspectives of critics of the Australian Paradox, by presenting the strong criticism of data analytics expert Rory Robertson and a range of nutrition experts who all denounced its conclusions, and failed to present any dissenting view in support of the study.

Lateline breached the ABC's editorial standards for accuracy by misrepresenting key facts about the data relied upon by the study and the conclusions of the Australian Paradox. *Lateline* omitted information that supported the study.

Lateline inaccurately claimed the authors of the study had a conflict of interest by identifying and questioning their close association with the industry funded GI Symbol program and the revenue raised through that program.

Lateline allowed inaccurate allegations about the study's authors to be broadcast which had the affect of vilifying them.

Assessment

Audience and Consumer Affairs have carefully considered the complaint and information provided by *Lateline*, and reviewed a range of relevant reports, studies and associated information. We have reviewed the content and assessed it against the Corporation's editorial standards for *accuracy*, *impartiality* and *fair and honest dealing*.

Lateline is not a specialist science program. It is a news and current affairs program which has reported on a newsworthy scientific controversy. Audience and Consumer Affairs have not assessed the merits of the science that was the focus of the reporting, it has assessed the reporting against the editorial requirements of the ABC Code of Practice, which represent the recognised standards of objective journalism.

1.1 Lateline demonstrated a predetermined, biased perspective

Lateline is a national current affairs program that has a responsibility to present context and analysis of newsworthy issues that represent matters of public interest. Audience and Consumer Affairs are satisfied that *Lateline* identifying the nature and basis of its report to the complainant, in its email of 6 April, is not a breach of the Corporation's editorial standards.

It is an editorial requirement, under the Corporation's editorial standards for *fair and honest dealing* in section 5 of the ABC Code of Practice, for *Lateline* to inform participants of the *general nature* of their participation in a report. As *Lateline* was seeking Professor Brand-Miller's participation in the report, it was entirely appropriate for Ms Alberici to clearly explain to her the conclusions of the program's extensive research and analysis of this matter and to seek her participation in the report to respond.

Lateline's research, analysis and conclusions on this issue, which were clearly conveyed to Professor Brand-Miller for her response, are consistent with the principals of objective journalism.

We note the complainant's statement that *Lateline* had indicated to her "*that it had undertaken its own exploration of the research. Yet the content of the program reiterates the same criticisms that RR raised in the Inquiry*". Audience and Consumer Affairs have confirmed that those criticisms were consistently expressed to *Lateline* by a range of nutrition and data analytics experts familiar with the issue. We are satisfied that *Lateline* did not uncritically adopt the views of Rory Robertson, and that the program conducted extensive, independent research and analysis of the issues examined in the reports.

Audience and Consumer Affairs established that the program conducted significant research on the issue over an extended period of time and its analysis was backed by demonstrable evidence and based on the professional expertise and judgement of its editorial staff. Emma Alberici did not base this analysis on personal opinions and we are satisfied the program's assessment of the Australian Paradox 2011, which was put to the complainant for response within a reasonable time prior to broadcast, was not biased.

Audience and Consumer Affairs observe that the program explained to the complainant, in its email of 6 April, that its research confirmed the majority of her peers in nutrition research were highly critical of the Australian Paradox's conclusions and identified the growing weight of international scientific evidence that added sugars are a leading cause of obesity and type II diabetes. *Lateline* carefully considered the analysis of the existing data by a range of leading, credible nutritionists – some of whom appeared in the broadcast. None of these leading experts in nutrition agree that on the available data, an Australian Paradox can confidently be established.

Audience and Consumer Affairs is satisfied the perspectives presented in the report represented the mainstream consensus of credible nutritionists on the Australian Paradox and we are satisfied that this strong criticism of the study was newsworthy and a matter of public interest worthy of investigation. *Lateline* has explained that it made reasonable efforts to seek and present the perspectives of those willing to argue in favour of existing levels of added sugar in foods but could only find vested interests such as the Beverage Council, Coca-Cola or researchers funded by vested interests. We observe that Ms Alberici specifically invited the complainant to identify "*which nutritionists/ scientists in Australia agree with the claims in your Australian Paradox paper?*" and

that the complainant identified just one person, Professor Peter Howe, who published the paper as the editor of *Nutrients*.

The program has advised it made repeated attempts to invite Professor Brand-Miller, Dr Barclay and Professor Robert Clark to be interviewed to respond to the criticisms made about the Australian Paradox. Those invitations were not accepted. As the authors and chief defenders of the Australian Paradox, we are satisfied that it was reasonable and appropriate for the program to seek the complainant's personal participation in the report to address the criticisms.

The Australian Paradox is undoubtedly controversial and the strong critical reaction to it by the authors' peers was the newsworthy focus of the broadcast. Within that context, we are satisfied *Lateline's* presentation of this criticism followed the weight of evidence on this issue and we are satisfied there was no editorial requirement for the program to present dissenting views in support of the study's conclusions, given that its authors were afforded ample opportunity to participate in the report to respond to its critics and defend the credibility of their work.

1.1 Lateline restricted its content to The Australian Paradox 2011 paper and would not entertain new or updated data or information relevant in the matter.

Lateline has explained that it was relevant to focus exclusively on the 2011 paper because Professor Brand-Miller continues to promote it at conferences, it has been cited in the Federal Parliament in support of the sugar industry and appears on the Australian Beverages Council website as a justification for sugar laden products the Council represents and advocates. We are satisfied these facts make the Australian Paradox 2011 study newsworthy and a matter of public interest worthy of the program's critical focus.

The program has further advised that its careful consideration of updated or new data presented in support of the Australian Paradox 2011 paper, confirmed that data was not relevant to *Lateline's* investigation as it falls outside the 30 year timeframe of the original paper being analysed by the program: 1980-2010. For example, some new data identified in correspondence with Ms Alberici refers to Coca-Cola *Life* and Pepsi *Next* which were not launched until after the relevant time frame (1980-2010). Audience and Consumer Affairs understand the basis of the Australian Paradox was the notable increase in national rates of obesity against the national drop in sugar consumption between 1980-2010. Pepsi *Next* and Coca-Cola *Life* were introduced to the market in 2012 and 2013 respectively, making them irrelevant to the focus of this report.

Lateline has confirmed receipt of Professor Brand-Miller's advice that the consumption of added-sugars would be analysed in a paper by the ABS, examining in further detail the Australian Health Survey, and this analysis would support the findings in the Australian Paradox. *Lateline* understand this data refers to the period 2011-2012, which is outside the period during which Professor Brand-Miller says she established an Australian Paradox, and it is therefore irrelevant to the focus of *Lateline's* investigation.

We observe that in an email exchange between *Lateline* presenter Emma Alberici and Professor Brand-Miller on 26 February 2015, in response to Professor Brand-Miller's advice that she was not willing to be interviewed on the Australian Paradox until after a second paper was published, Ms Alberici asked Professor Brand-Miller – "*does your response suggest that the findings in your original Australian Paradox paper are no longer valid?*" Professor Brand-Miller responded – "*I'm not sure why you have that impression. The findings in the Australian Paradox are more valid than ever.*"

Audience and Consumer Affairs are satisfied that the strong critical reaction to the 2011 paper, the controversy surrounding it and the fact that it continues to be referred to by vested interests confirms that it remains newsworthy and a matter of public interest worthy of critical examination by *Lateline*. We have concluded that there was no editorial requirement for the program to refer to new data or information that falls outside of the study's timeframe of 1980-2010.

1.1.3 Lateline did not present an independent dissenting perspective – all the experts interviewed supported the position of Lateline and RR.

Audience and Consumer Affairs have confirmed that *Lateline* invited Professor Brand-Miller, Dr Alan Barclay, Dr Michael Spence and Professor Robert Clark to be interviewed to respond to the criticisms about the paper in the broadcast. Those invitations were not accepted.

We are satisfied that as the authors of the paper, it was reasonable for *Lateline* to expect that Professor Brand-Miller or Dr Barclay would be willing to address the criticisms directed at it and to defend the credibility of the study in a meaningful way. *Lateline* has confirmed that it was unable to identify any credible nutritionist who supported the strength of the findings of the Australian Paradox.

Lateline has advised that it inquired with Professor Brand-Miller, who among her peers in nutrition science supported her Australian Paradox thesis, and she responded that "there are many" but specifically named only Professor Peter Howe. The program has explained that it contacted Professor Howe in 2015 and he refused to discuss the substantive nature of complaints about the Australian Paradox and refused to be interviewed.

Audience and Consumer Affairs note *Lateline's* advice to its audience that "*Lateline has been in contact with Professor Jennie Brand-Miller since early last year about that research. She hasn't been available for an interview, but she did answer some questions via email. Professor Brand-Miller said the findings in the 'Australian Paradox' paper were more valid than ever.*" *Lateline* has explained that it did not refer to Professor Brand-Miller's claim that she was willing to be interviewed once another paper on the Australian Paradox was published, that incorporated updated information, as the focus of this broadcast was clearly the paper published in 2011 and the data that underpinned it, not one that would be published sometime in the future.

Audience and Consumer Affairs is satisfied the broadcast presented a range of principal relevant perspectives on the critical reaction to the Australian Paradox 2011, and that it made reasonable efforts to seek and include the perspectives of the authors of that report to respond to that criticism.

2.1.1 FAOStat Data

Audience and Consumer Affairs understand that to a significant extent, the Australian Paradox 2011 rests on the use of United Nations Food and Agriculture Organisation (FAO) statistics which showed a fall in apparent sugar consumption in Australia. We also understand the FAO's annual data on Australian apparent consumption of sugar relied to a significant extent on data from an Australian Bureau of Statistics survey that had been discontinued in 1999, because the ABS had concluded that its historical methodology for counting added sugar was no longer reliable, given the fact that more and more sugars are now hidden in processed foods and it is therefore much more difficult to accurately measure personal consumption of sugar in Australia.

5

We have confirmed that in telephone calls with both the ABS head of health research and her deputy, *Lateline* established that the series was discontinued because the methodology was no longer considered reliable as an indicator of actual added sugar consumed. The ABS did not have the resources to establish a new methodology that could properly and reliably analyse consumption. This conclusion also brought into question the reliability of the data series the ABS had been producing over time, which the FAO relied upon for its conclusions on Australian sugar consumption.

We observe Professor Clark's acknowledgement that the ABS ceased its data collection in 1999 "*due to an unfunded need to update the methodology to account for changing consumption and production factors that were not captured (and which could presumably affect the accuracy of data points in years approaching this cessation point)*" and "*from my email exchange with ABS, I believe the ABS data collection ceased due to lack of resources to address an emerging data reliability issue.*"

Audience and Consumer Affairs is also satisfied that *Lateline* made reasonable efforts to confirm that, despite the fact the FAO stopped receiving data from the ABS in 1999, it continued to publish a series for Australian sugar supply/consumption for the 2000s by re-producing the ABS series from the previous decade.

2.1.1.1 RR statements

We are satisfied that Rory Robertson represented a principal relevant perspective on the issues examined in the broadcast. We note that he is a senior economist with one of the country's leading banks who is a highly credible and respected data analytics expert. It is our view that his extensive research on this issue and critical assessment of the Australian Paradox, particularly the data relied upon by its authors, is based on and substantiated by demonstrable evidence and is compelling.

Audience and Consumer Affairs has confirmed that *Lateline* met the editorial requirement for accuracy by making reasonable efforts to examine and critically assess the research that underpinned Mr Robertson's claims, prior to broadcasting them. That research included his email correspondence with the FAO, where he sought to specifically verify the sources of information upon which the FAO relied for its sugar series for Australia.

Mr Robertson established that the FAO's sugar series for Australia relied to a significant degree on ABS data for several decades until 1998-99, when the ABS discontinued its data collection on the grounds that it was unreliable. The responsible FAO researcher confirmed in writing to Mr Robertson that the FAO had used the last available figure of 35.7kg from its 1998-99 sugar series for Australia and continued to use it for subsequent years. That is, when the ABS stopped counting sugar after 1998-99, the FAO chose to continue publishing data, reproducing its 1999 figure again for 2000, and then continued publishing new data showing a figure of approximately 36kg per year. Audience and Consumer Affairs note that this absence of relevant, reliable data post 1999 appears to be confirmed in Figure 2 (A) of the Australian Paradox, in the form of the conspicuously flat line leading to 2003, where the series ends, despite the study spanning to 2010.

Despite the complainant's claim that Professor Clark's investigation "presents a comprehensive rebuttal of these allegations", we note his acknowledgement that the ABS ceased collecting data beyond 1999 because of its unreliability and his concern about the Australian Paradox authors' uncritical assessment "*about the detailed methodology underpinning the FAO data in Figure 2, and had 'assumed' that it accounted for total sugar intake from their earlier research leading up to publication. I indicated that we both needed to check the facts.*"

We note the complainant's reference to Professor Clark's view that *"On balance I believe it was reasonable for the authors to have included the FAO data for these years in Figure 2."*

Audience and Consumer Affairs cannot agree that this statement by Professor Clark confirms the data is accurate, or that it contradicts the written advice from the FAO to Mr Robertson. We are satisfied the FAO's advice to Mr Robertson that it used a simple algorithm for 1999-2003 that was based on 1999 data, not on genuine fresh observations of Australian apparent consumption, supports Mr Robertson's statements.

We are satisfied that *Lateline* made reasonable efforts to critically assess Mr Robertson's statements, which were clearly attributed to him in the report. The presentation of Mr Robertson's statements is in keeping with the Corporation's editorial standards for accuracy.

2.1.1.2 WR statements

We note the complainant's concern about the accuracy of the following statements by Wavne Rikkers in the broadcast –

"Our research shows that the 'Australian Paradox' paper was based on inaccurate data."

Audience and Consumer Affairs are satisfied the presentation of this statement is in keeping with the Corporation's editorial standards for accuracy. This view was repeatedly expressed to *Lateline* during the production of the report, by a range of nutrition and data analytic experts who have examined the data upon which the Australian Paradox was based. The program's own extensive research also confirmed serious questions about the reliability of the data used in the study.

"We also discovered that Barclay's research was based on information that didn't include imported processed foods."

Audience and Consumer Affairs is satisfied that *Lateline* made reasonable efforts to ensure that Wavne Rikkers was a highly credentialed expert who had dedicated significant time researching this issue. She was quoting the findings of her own peer reviewed paper, of which one of the complainants, Dr Barclay, was one of the peer reviewers. The statement was clearly attributed to Rikkers as her own assessment.

Audience and Consumer Affairs note the complainant's reference to Professor Clark's Initial Inquiry Report, and its view that the Rikkers statement regarding Dr Barclay's research was inaccurate. We also note the Initial Inquiry is not a peer reviewed document and its findings are the sole view of Professor Clark.

For these reasons, Audience and Consumer Affairs have concluded that the inclusion of Wavne Rikkers analysis was in keeping with the Corporation's editorial standards for accuracy.

2.1.1.3 EA statements

We note the complainant's concern that the following statement from the broadcast is inaccurate –

EMMA ALBERICI: *But the ABS discontinued that study as unreliable, telling Lateline its methodology for counting sugar intake was no longer accurate. The increasing prevalence of processed foods made it too difficult for them to reliably count sugar consumption.*

For the reasons set out above, we are satisfied this statement is accurate and in keeping with the Corporation's editorial standards. As the presenter's statement makes clear, the ABS directly informed *Lateline* why it discontinued its study and our assessment of Professor Clark's view is that he agrees with that explanation.

We note the complainant's claim that the *Lateline* audience was not informed that the Australian Paradox 2011 relied on published FAOStat data, not exclusively ABS data. We also note the following statement from the broadcast -

EMMA ALBERICI: *The only source of data in the published paper actually relevant to the timeframe of the 'Australian Paradox' paper, between 1980 and 2010, is this chart from the United Nations Food and Agriculture Organization. Until 1999 the FAO, based in Rome, relied on data gathered by the Australian Bureau of Statistics, measuring actual sugar consumption.*

But the ABS discontinued that study as unreliable, telling Lateline its methodology for counting sugar intake was no longer accurate. The increasing prevalence of processed foods made it too difficult for them to reliably count sugar consumption.

The relevant, newsworthy issue being raised in this statement by the presenter is the fact that the FAO had relied on the ABS data, but that the ABS had discontinued its study as unreliable – bringing into question the reliability of the data published by the FAO that had been used to support the conclusions of the Australian Paradox.

We are satisfied there was no editorial requirement for the program, within this specific context, to also note that the FAO has additional data sources. The newsworthy issue being examined in this aspect of the report, and one that has been identified by numerous critics of the Australian Paradox 2011, was the efficacy of the ABS data published by the FAO and used by the authors to support their claims. The report then moves on to immediately explain how Rory Robertson contacted the FAO and was informed directly by that organisation that it had continued to use ABS data from 1999 into the 2000s.

We are satisfied this information regarding the ABS data was newsworthy and a matter of public interest. We are satisfied there was no editorial requirement, within the context of this report, for *Lateline* to inform the audience that the ABS discontinued all food availability data.

2.1.2 Misleading statement about author credibility

We note the complainant's concern about the following statement by the presenter regarding Professor Clark's Initial Inquiry –

EMMA ALBERICI: *It recommended Professor Brand-Miller and Dr Barclay publish a revised paper that clarifies the key factual issues examined in the inquiry. Almost two years later, that's yet to happen. Professor Brand-Miller says that's because she's waiting for new data from the Australian Bureau of Statistics that will analyse sugar consumption from those National Health surveys.*

We are satisfied the statement is factually sound and is not misleading. The complainant's explanation for the delay was made clear to the program's audience.

2.1.3 Inaccurate and misleading statement from Erratum

We note the complainant's concern that the following statement by the presenter is inaccurate and that the Erratum was required only to address a transcription error –

EMMA ALBERICI: *The correction failed to mention that the volume of sales of regular sugary drinks was up, not down. This includes higher sales of so-called sports drinks like Powerade and iced teas, as well as regular soft drinks like Coke, Fanta, Solo and Sprite.*

When Lateline asked Professor Brand-Miller which varieties had reduced sugar content, she explained that while formulas of the classic soft drink versions are the same, there are now new ones on the market like Coca-Cola Life, with 35 per cent less sugar, and Pepsi Next, with 30 per cent less. But neither of those drinks existed when the 'Australian Paradox' paper was written, much less over the 30 years it seeks to establish an Australian paradox.

Audience and Consumer Affairs are satisfied *Lateline* made reasonable efforts to ensure that the material facts were accurate and presented in context. We understand the relevant aspect of the paper that required correction claimed -

"Food industry data indicate that per capita sales of low calorie beverages doubled from 1994 to 2006 while (sugar) sweetened beverages decreased by 10 per cent."

It was subsequently established the claim that Australians were drinking 10 per cent less sugar sweetened soft drinks since 1994 could not be supported by the charts published in the Australian Paradox (Figure 5.), which clearly shows soft drink consumption had gone up by 30 percent.

Audience and Consumer Affairs observe that when Professor Brand-Miller was questioned about this claim on ABC Radio, she responded by suggesting *"It might be that a key word came out... a key word has come out, OK?"* and clarified that she had meant to say *"the amount of sugar that went into those soft drinks declined by 10 per cent"*.

However, we note the Erratum did not reference a decline in the amount of sugar in soft drinks as foreshadowed by Professor Brand-Miller, nor did it acknowledge the original error by stating, as Ms Alberici points out, that *the volume of sales of regular sugary drinks was up, not down*. The Erratum referred to the 10 percent decline in *market share*, as shown by figure 5 (B) which as Professor Clark noted *"shows a net decrease in market share of sugar sweetened beverages due to increased sales of other beverage types, that is of no consequence to the evaluation but which has considerably muddled the waters."*

For these reasons, we are satisfied that *Lateline* made reasonable efforts in keeping with the editorial requirement for accuracy.

2.1.4 Sugar sweetened beverages (SSBs) Sales, market share and sugar intake

We observe the full context of the *Lateline* statement that concerned the complainant –

EMMA ALBERICI: *The 'Australian Paradox' paper relies on three main data sets to support its conclusions. Let's start with sugar-sweetened beverages, where a cursory glance of the author's own chart reveals sales are up 30 per cent, not down 10 per cent as is claimed in the paper. The red line represents the rise in sales of sugar-free drinks.*

(Excerpt from Background Briefing, ABC Radio National, 2014)

WENDY CARLISLE, REPORTER: *All right. But you don't say that in the paper. You say that...*

EMMA ALBERICI (voiceover): *When challenged about this mistake on ABC radio's Background Briefing, Jennie Brand-Miller admitted she'd made an error.*

JENNI BRAND-MILLER: *I'm saying that the amount of sugar that went into those soft drinks declined by 10 per cent.*

WENDY CARLISLE: *All right. But you don't say that in this paper. You say the food industry data show that per capita sales of sugar-sweetened beverages have decreased by 10 per cent.*

JENNI BRAND-MILLER: *I'll double-check it for you.*

WENDY CARLISLE: *All right. OK. Thank you.*

We note the following passage from the ABC News online report –

"But it turned out Professor Brand-Miller and Dr Barclay's data was not quite right. In fact, what they had reported as a fall in consumption of sugar was actually a significant rise. They had claimed sales of sugary sweetened beverages were down by 10 per cent, but the chart used in their own research actually shows a 29 per cent increase."

Audience and Consumer Affairs are satisfied that Lateline accurately presented in context the original error in the paper, identified by *Background Briefing*; and the action taken by the authors to correct that error. This was relevant for inclusion because the error was significant and was in fact used by the Australian Beverages Council: the error goes to the overall credibility of the paper.

However, the ABC News online report conflated 'sugar' with 'sugary drinks' in this statement: "what they had recorded as a fall in consumption of sugar was actually a significant rise". This statement has been clarified and now states: "what they had recorded as a fall in consumption of *sugary drinks* was actually a significant rise".

Given the focus of this broadcast was the Australian Paradox 2011 paper and the data relied upon by its authors, we cannot agree that there was any requirement for the program to refer to the research the complainant identified that was published in 2014.

2.1.4.2 New varieties and formulations

Audience and Consumer Affairs have reviewed the full email correspondence between Professor Brand Miller and Ms Alberici referred to here. We observe that Ms Alberici's question, inquiring about "which soft drinks are said to have less sugar in them", was a follow up question seeking to clarify information in an earlier response from Professor Brand Miller, where she referred to "the new reduced-sugar versions of many sugar-sweetened beverages (eg 6% in lieu of 12%)."

We note the initial question from Ms Alberici explicitly states – “*We are analysing the paper on the public record, not new data you may have found from industry (vested interests) and now wish to introduce.*” Despite that clear advice from Ms Alberici that the program’s focus was the data that supported the conclusions in the Australian Paradox paper published in 2011, Professor Brand Miller identified the new formulations for *Pepsi Next* and *Coca-Cola life* in her answer, which were launched into the market in 2012 and 2013 respectively, outside of the paper’s relevant timeframe of 1980-2010.

Given that when Ms Alberici posed her question on this issue, she clearly identified the fact that the program’s focus was exclusively on the 2011 paper that was a matter of public record, we are satisfied it was not misleading for the program to report the fact that Professor Brand-Miller provided reference only to new products that were not on the market during the time period covered in her paper. It is also relevant to note that Professor Brand Miller provided the example of *Pepsi Next* to Professor Clark to illustrate changes in sugar content of nutritively sweetened beverages.

2.1.5 National Nutrition Surveys data

Audience and Consumer Affairs observe that 7 of the 8 indicators of sugar consumption in the Australian Paradox’s two national nutrition survey charts (Figures 3 and 4) trend up, not down.

Lateline has explained that it carefully considered how the Australian Paradox relied on national nutrition survey data, and how the program made reasonable efforts to establish that data’s credible application in the study. The ABS advised *Lateline* that these surveys should not be compared because the methodology for each one is different and the conclusions drawn from such a comparison would have little meaning, explaining that the three surveys were never intended to be compared with each other as such comparisons could provide no substantive conclusion.

This assessment of the data was made by a number of experts interviewed during the report’s production.

The program also confirmed the widely acknowledged view that national health survey data from the ABS is not considered reliable in calculating sugar consumption because of its reliance on self reporting of that consumption, and most people are inclined to under report to a significant degree.

The program also examined *The Bridging Study – comparing results from the 1983, 1985 and 1995 Australian national nutrition surveys*, published by the Commonwealth Department of Health and Aged Care, which presents independent academic studies that sought to compare the three relevant health surveys. Audience and Consumer Affairs observe that the *Bridging Study* specifically identifies the flaws in trying to compare previous years as the methodology for each survey was different. The samples were different and the questions asked were different. There was also significant seasonal variation.

For these reasons, we are satisfied that *Lateline* made reasonable efforts in keeping with the editorial requirement for accuracy, and presented the information in context.

2.1.6 GI Symbol Program

Audience and Consumer Affairs note the complainant's concern regarding the references to "ordinary sugar", "raw sugar" and "even sugar itself" being licensed by the Glycemic Index Foundation. We observe the following context in which those references were presented -

EMMA ALBERICI: *Marion Nestle says she was surprised to learn that nutrition scientists working with the university's Glycemic Index Foundation are receiving \$6,000 from food and drink companies, every time they stamp one of their items with a low-GI health tick: even those containing high levels of added sugar - even sugar itself.*

It is clear that Ms Alberici's statement above was paraphrasing Marion Nestle's reaction to the GI symbol program, with Professor Nestle immediately following with her view of the program;

MARIAN NESTLE: *Ah, I don't know what to say about the Glycemic Index (laughs). People don't eat individual foods. They eat mixtures of foods and that changes. When you mix foods, you get some kind of mixture of glycemic indices. But when I was in Australia, I was extremely amused to see a logo from the Glycemic Index Foundation on a pound of plain, ordinary sugar.*

Marion Nestle is a renowned nutritionist. Her statement that she was "extremely amused to see a logo from the Glycemic Index Foundation on a pound of plain, ordinary sugar" was clearly attributed as her expert view, based on her personal examination of the product. We are satisfied that it was appropriate for the program to allow this expert to express her informed view.

Lateline has explained how it made every effort to seek the authors' participation in the report to respond to criticisms of the GI symbol program, but they declined.

In regard to Ms Alberici's statement from the News online report – "...some of the products that carry the tick include Milo, breakfast cereals and raw sugar", Audience and Consumer Affairs note that CSR LoGiCane, which carries the Low GI symbol, applies natural molasses extract to raw sugar. While we note this application "naturally increases sugar's resistance to digestion", we are satisfied the report's reference to "raw sugar" is in keeping with the Corporation's editorial standards for accuracy.

2.2 Lateline asserted false and/or misleading conflict of interest, and failed to check the facts

2.2.1 \$6000 payments

Lateline has explained to Audience and Consumer Affairs how it made reasonable efforts to confirm the accuracy of its references to the GI Foundation Symbol Program. The program identified the fact that the GI Foundation is based at the University of Sydney and is made up of a group of scientists whose money comes from food companies for GI testing and for working collaboratively with the food companies to further promote their products.

Audience and Consumer Affairs observe the following statements, provided by *Lateline*, from the GI program's website –

Welcome to the 'home of the glycemic index' - the official website for the glycemic index and international GI database which is based in the Human Nutrition Unit, School of Molecular Bioscience, University of Sydney. The website is updated and maintained by the University's GI Group which includes research scientists and dietitians working in the area of glycemic index, health

and nutrition including research into diet and weight loss, diabetes, cardiovascular disease and PCOS and headed by Professor Jennie Brand-Miller

Sydney University GI Research Service (SUGiRS) has an established reputation for quality, speed and flexibility. **We can work with your company to develop new low GI products** or help lower the GI of existing ones.

This certified symbol identifies foods that have been GI tested following the international standardised method. **Manufacturers pay the GI Foundation a licence fee to use the symbol** on their products and this income is channelled back to education and research.

If you are a food company or retailer and you have a product that you think may be eligible to carry the GI Symbol, we'd love to hear from you.

Audience and Consumer Affairs note that Professor Clark's consideration of conflicts of interest, in his Initial Inquiry Report, confirmed that the program's annual revenue does not exceed \$1 million, and that revenue is mostly spent on administrative costs and fees for 3-4 consultants, of which Dr Barclay is one.

Audience and Consumer Affairs has reviewed the transcript of *Lateline's* interview with Marion Nestle and is satisfied the program's attribution of her view is accurate and in keeping with the Corporation's editorial standards for accuracy.

We observe the complainant's request for a copy of a transcript of *Lateline's* interview with Marion Nestle. ABC News and current affairs programs do not provide copies of notes, documents or unedited transcripts produced during their newsgathering to complainants; however, this information has been reviewed independently by Audience and Consumer Affairs.

For these reasons, we are satisfied the reports references to the fees associated with the GI symbol program are accurate and presented in context.

2.2.2 Dr Alan Barclay

We are satisfied the references in the reports to Professor Clark's assessment of Dr Barclay accepting a fee from Coca-Cola are accurate and presented in context. The perceived concerns about the links between the Australian Paradox authors and the sugar industry, raised with the program numerous times during its research into this matter, are sufficiently newsworthy and a matter of public interest. The fact that Professor Clark noted this issue in his report was considered newsworthy and relevant to report.

2.3 Lateline allowed defamatory statements to be broadcast and published

2.3.1 RR statement

We are satisfied that Mr Robertson is entitled to express his genuinely held view that the data published by the FAO after 1999 is "faked", and that he was shocked that "the highest levels of nutrition science in Australia not only can publish whatever nonsense they want, but no-one really has helped me in promoting a retraction of the paper." Mr Robertson's comments on the "faked" data

are based on his research and direct inquiries with the FAO. The ABC's presentation of his principal relevant perspective is not in breach of the Corporation's editorial standards for *accuracy*.

We note these sentiments are not unique to Mr Robertson. Although they may have been expressed to the ABC in more moderate tones, these criticisms have been repeated by a range of expert nutritionists contacted by the program. As Ms Alberici informed the complainant in her email correspondence of 6 April, the range of expert nutritionists *Lateline* spoke to unanimously and "*unequivocally rejected your Australian Paradox thesis as "flawed" "non-existent" and "not supported by the data" and "to be ignored"*".

The editorial standards for *harm and offence* do not preclude the ABC from reporting on controversial matters in the public interest. The Australian Paradox is a controversial paper on the public record and, as such, has been subjected to strong criticism and the expression of strong views. We are satisfied the statements that concerned the complainants were justified by the editorial context and were not presented gratuitously.

Nevertheless, Audience and Consumer Affairs have assessed those statements against the editorial standards for accuracy, in section 2 of the ABC Code of Practice. We are satisfied that *Lateline* made reasonable efforts to ensure that Mr Robertson had based his statements on his considerable research, and that it had established that his concerns regarding the data and the conclusions of the paper were shared by a range of informed professionals with an understanding of the issue. He was stating his own view that was clearly attributed, and it was presented by the program in context.

The complainant's reference to Professor Clark's assessment of Mr Robertson's view is noted.

2.3.2 MN statement

Audience and Consumer Affairs have confirmed that *Lateline* spoke at length to Professor Nestle both before and during its interview with her. The program discussed in detail her long held conviction against nutrition scientists receiving any funding from the food industry. We are satisfied that Ms Alberici's statement is an accurate assessment of Marion Nestle's view and that it was clearly and appropriately attributed.

We are satisfied the presenter's statement is in keeping with the Corporation's editorial standards for accuracy. As explained above, the ABC's standards for harm and offence do not preclude the ABC from reporting on controversial matters in the public interest. The statement of concern was justified by the editorial context and was not presented gratuitously.

2.1.4 Lateline misrepresented a radio interview

Audience and Consumer Affairs understand that Professor Brand-Miller was interviewed by Wendy Carlisle at the University of Sydney. *Lateline* is a television program that relies on the use of images to tell its stories and it is common journalistic practice to present re-enactments of events where no footage is available. We observe that aspect of the report clearly noted it was a re-enactment, and we cannot agree that the footage of Wendy Carlisle sitting at the console in the ABC Radio National studio while the relevant audio from the interview is played is materially misleading to the program's audience.

As previously noted, we are satisfied it was relevant and appropriate for the program to include reference to the *Background Briefing* interview because there has been sufficient doubt expressed

about the credibility and conclusions of the paper; and the initial error was significant and was in fact used by the Australian Beverages Council.

We are satisfied the aspect of the Radio National interview that was used in the broadcast was newsworthy, relevant to the issues examined in the broadcast and was presented in context. For these reasons, we have concluded this aspect of the report is in keeping with the editorial standards for *accuracy* in section 2 of the ABC Code of Practice.

Audience and Consumer Affairs note the complainants were afforded ample opportunity to participate in the broadcast to respond to this specific issue, but declined.

The complainant's comments regarding Professor Brand-Miller's experience with Wendy Carlisle and Radio National's *Background Briefing* program are noted. As those events and the associated broadcast fall well outside of the six week timeframe for submitting a complaint about ABC content, Audience and Consumer Affairs is unable to investigate or respond to those matters.

2.5 Lateline misrepresented the conclusions of The Australian Paradox 2011

Audience and Consumer Affairs observe the following statement that concerned the complainant from the ABC News online report *Australian Paradox under fire: Health experts hit out at Sydney Uni sugar study* –

Imagine if the amount of sugar you consumed in things like soft drink had nothing to do with how much weight you put on. Remarkably that is what two of Sydney University's leading researchers found in their 2011 study, The Australian Paradox.

Audience and Consumer Affairs have concluded that this statement does not accurately convey the conclusions of the Australian Paradox. The study does not conclude that *"the amount of sugar you consumed in things like soft drink had nothing to do with how much weight you put on"*. This statement exaggerated the complainant's conclusions and is not in keeping with the Corporation's editorial standards for accuracy. The statement has now been corrected and an Editor's Note appended to the story.

Audience and Consumer Affairs observe the following statement that concerned the complainant from the ABC News online report *Australian Paradox under fire: Health experts hit out at Sydney Uni sugar study* –

Recently, Professor Brand-Miller presented her theory about the harmless nature of added sugar at Sydney University's annual gathering of the world's best science students. "Something to think about. If it's not the sugar, what is it?" she said.

Lateline has identified the following statements by Professor Brand-Miller, from articles in *The Australian* newspaper in 2011, as the basis for the above statement in the report –

*"Unlike saturated fats, trans fats, salt and alcohol, **sugar doesn't actually do any direct harm to the human body**," said Professor Brand-Miller, author of *The Low GI Diet* and recipient this month of an Order of Australia. <http://www.theaustralian.com.au/national-affairs/weight-a-minute-dont-blame-sugar/story-fn59niix-1226080214264>*

According to Brand-Miller, far too much discussion about diet is out of date, in part as the NHMRC guidelines are out of date. She argues there's growing evidence that - unlike saturated and trans fats,

salt and alcohol - eating added sugar is not inherently dangerous. "It doesn't actually do any direct harm to the human body. It doesn't raise blood cholesterol or raise blood pressure or cause cancer," says Brand-Miller, known for her book The Low GI Diet.

<http://www.theaustralian.com.au/news/health-science/a-spoonful-of-sugar-is-not-so-bad/story-e6frg8y6-1226090126776>

Audience and Consumer Affairs is satisfied that *Lateline* made reasonable efforts to substantiate its claim that Professor Brand-Miller has publicly expressed a view on "the harmless nature of added sugars", and we have concluded the above statement is in keeping with the Corporation's editorial standards for accuracy.

Dr Barclay not contacted by Lateline

Lateline has explained that it initially addressed its correspondence to Professor Brand-Miller as the lead author and that at no point did she suggest the program contact Dr Barclay. Subsequently, from 6 April, *Lateline* sent emails to both of the complainants and continued to receive responses only from Professor Brand-Miller, who referred to "we" in declining the requests for interview.

Conclusion

For the reasons set out above, Audience and Consumer Affairs is satisfied that the *Lateline* TV report was in keeping with the Corporation's editorial standards for *accuracy, impartiality, fair and honest dealing and harm and offence.*

An editor's note has been posted on the ABC News online report *Australian Paradox under fire: Health experts hit out at Sydney Uni sugar study* to alert the ABC audience to the inaccurate statement - *Imagine if the amount of sugar you consumed in things like soft drink had nothing to do with how much weight you put on. Remarkably that is what two of Sydney University's leading researchers found in their 2011 study, The Australian Paradox.* The error has also been posted on the Corporation's online corrections and clarification's page.

The statement *"But it turned out Professor Brand-Miller and Dr Barclay's data was not quite right. In fact, what they had reported as a fall in consumption of sugar was actually a significant rise. They had claimed sales of sugary sweetened beverages were down by 10 per cent, but the chart used in their own research actually shows a 29 per cent increase",* has now been clarified and amended to read *"a fall in consumption of sugary drinks was actually a significant rise."*

Notwithstanding these statements, for the reasons set out above, Audience and Consumer Affairs is satisfied the ABC News Online report is otherwise in keeping with the Corporation's editorial standards for *accuracy, impartiality and fair and honest dealing.*

The ABC Editorial Policies is available online at the attached link;

<http://about.abc.net.au/how-the-abc-is-run/what-guides-us/our-editorial-policies/>

Should you be dissatisfied with this response, you may be able to pursue your complaint regarding the on-air *Lateline* report with the Australian Communications and Media Authority

<http://www.acma.gov.au>

8 September 2016