Journalism, ethics and accountability:  
Evaluating the virtues of self-regulation

Candidate: Rhonda Breit  (LLB, Grad Dip Media, Broadcasting & Information Technology Law)

School: Arts Media and Culture

University: Griffith University

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Abstract

This dissertation questions whether the current system of journalistic self-regulation in Australia can give effect to ethical journalism given the conceptual paradigms that have informed its understanding of journalism and journalism ethics. It argues the ideological focus of journalistic self-regulation has constrained the current system’s ability to encourage ethical journalism. By taking a grounded theory approach to developing an alternative theory of journalism, this study attempts to fill a void in the reform of journalistic self-regulation in Australia by first highlighting the shortfall in recent reviews. It then argues reform must address the ideological focus of the journalism industry. This means looking at the ideologies espoused in the industry codes. It also means looking at the ideologies that frame how values reflected in the codes are interpreted. In summary, my aim in this dissertation is to articulate a praxis-driven theory of journalism by which to examine the suitability of the Australian self-regulatory environment to give effect to ethical journalism. This will be done by:

• mapping the current system of journalistic self-regulation;
• distilling the ideological foci of contemporary interpretations of journalism and journalism ethics;
• postulating an alternative theory of journalism as practice;
• evaluating the current system of self-regulation in light of the theory of journalism as practice; and
• recommending an alternative model of self-regulation that takes account of the theory of journalism as practice.

The grounded theory approach to this study involves a textual analysis of a representative sample of self-regulatory codes to identify deficiencies in the way philosophical understandings of identity and ethics have been applied to journalism. By highlighting the gaps in the conceptual paradigm that frames the current theories of journalism and journalism ethics, I offer insights into key
problems facing industry self-regulation. Given its grounding in substantive data analysis, the theory developed in this study is able to offer significant insights into ways of improving journalistic self-regulation to encourage ethical journalism. By categorising the self-regulatory codes according to ideology, I aim to explain how core journalistic values can be marginalized. Thus, this study aims to reveal problems with the way in which journalism self-regulation has been conceptualised and operationalised. In this way, it uses the tools of meta-ethics and normative ethics to analyse an ethical problem. Thus the grounded theory emerging from this study falls into the conceptual category of applied ethics.

This approach offers a flexible methodology that allows the development of an emergent theory based on raw data derived from the various codes that operate within the journalistic self-regulatory environment. The research problem starts broadly, looking at the ability of the current system of journalistic self-regulation to encourage ethical journalism. The focus of the study is on organizational ideology and conceptions of journalism, rather than individual values of journalists. Through a process of constant comparison I will focus the research problem, constructing a theoretical framework to evaluate whether the current system of journalistic self-regulation can encourage ethical journalism. To achieve these objectives, the study will canvass both process (the ability of self-regulation to give effect to ethical journalism) and action (building a theoretical framework for conceptualising reform). A grounded theory approach offers a way of categorising conceptions of journalism and self-regulation allowing me to develop an alternative theory of journalism that promotes a holistic approach to journalism ethics.

This study does not purport to offer final solutions to the ethical problems within Australian journalism. It does, however, aim to present an alternative pathway towards reform of journalistic self-regulation in Australia that focuses on encouraging ethical journalism and expanding the theoretical paradigms that shape current approaches to ethics.
Statement of Originality

I, Rhonda Alain Warren Breit, of Wishart in the state of Queensland, hereby declare that this work has not previously been submitted for a degree or diploma in any university.

To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis itself.

Declared by

.................................................................

Rhonda Alain Warren Breit

Date:........................................
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This project has been a journey of many highs and lows. With a lot of support, discipline and an immense amount of reading, I have been able to harness my fragmented thoughts, shaping them into this document. It has been a labour of love, hate, pain, joy, despair and elation but after three and a half years this journey (for now) has come to an end. There are so many people I must thank. My principal supervisor, Associate Professor Michael Meadows, has offered constructive and friendly advice, encouragement and unwavering support for this project. The wise counsel of Dr Ian Weeks, a former colleague and associate supervisor, helped to get this project off the ground. The University of Queensland has offered me the opportunity to complete this work. The support of my colleagues at the School of Journalism and Communication has been a great inspiration to me. To single one out would be unfair; I would like to acknowledge them all, as everyone in their own way has helped me. Grant Dobinson requires special thanks for helping me format and set out this work. But I could not have completed this project without the support of my husband, John. His quiet, selfless and loving support has given me the space – emotionally, physically and intellectually – to dedicate myself to completing this study. The biggest thank you, however, is reserved for my son William. He had just turned three when I started. He is now six-and-a-half. I want to thank you, darling, for giving up so much of your mum.
Contents

INTRODUCTION

The problem ........................................................................................................................................... 1
Rationale ................................................................................................................................................ 2
Methods............................................................................................................................................. 9
Structure of this dissertation .............................................................................................................. 13

CHAPTER 1
The self-regulatory environment: a determinative approach to ethics

1.1........ The self-regulatory environment ................................................................................. 15
1.2........ Media ownership in Australia ..................................................................................... 15
1.3........ The self-regulatory environment ................................................................................. 18
1.4........ Aims of codes ............................................................................................................... 20
1.5........ The Australian Codes: templates of virtue? ................................................................. 26
1.5.1........ MEAA ....................................................................................................................... 26
1.5.2........ The Australian Press Council .................................................................................. 27
1.5.3........ The Australian Broadcasting Authority ................................................................. 31
1.5.4........ Commercial television industry codes of practice ............................................... 34
1.5.5........ Commercial radio industry codes of practice ....................................................... 35
1.5.6........ ABC code .................................................................................................................. 36
1.5.7........ The Age Newspaper .................................................................................................. 37
1.6........ How codes are operationalised ..................................................................................... 43
1.7........ Dispute resolution options ........................................................................................... 43
1.8........ Conclusion ....................................................................................................................... 47

CHAPTER 2
A grounded theory approach to journalism

2.1........ Introduction ..................................................................................................................... 49
2.2........ Elements of grounded theory ....................................................................................... 50
2.3........ Data used in study ......................................................................................................... 53
2.4 The comparative analysis process .................................................................54
2.5 Sampling and coding ....................................................................................60
2.6 Advantages of grounded theory ..................................................................63

CHAPTER 3
Liberalism and Communitarianism: A theoretical framework for mapping journalistic values
3.1 Introduction ..................................................................................................65
3.2 The purpose of theory ..................................................................................67
3.3 Liberalism: A family of theories .................................................................69
3.4 Classic liberalism .......................................................................................73
3.5 Modern liberalism ......................................................................................86
3.6 Neo-liberalism .........................................................................................92
3.7 The communitarian critique of liberalism ................................................94

CHAPTER 4
What is journalism? A defining moment for ethics
4.1 Introduction ................................................................................................115
4.2 Approaches to describing journalism .......................................................118
   4.2.1 The functional approaches ...............................................................119
   4.2.2 The institutional and social contract views of journalism ..............124
   4.2.3 Critiques of the fourth estate: Autonomous individuals, cultural commodity and cultural practice ................................129
   4.2.4 The cultural practice approach .........................................................135
   4.2.5 The ideological focus of theories of journalism .............................141
4.3 Reconciling these approaches .................................................................144

CHAPTER 5
Towards a theory of journalism as practice
5.1 Introduction ................................................................................................149
5.2 MacIntyre’s modern virtue ethics theory .................................................151
5.3 Journalism as a practice ...........................................................................158
CHAPTER 6
Journalism self-regulation: Mapping the ideological conflict

6.1...... Introduction................................................................................................... 169
6.2...... MEAA: A modern liberal view of journalism............................................... 170
6.3...... APC: A modern liberal organisation............................................................ 176
6.4...... ABA: A neo-liberal approach to self-regulation............................................. 183
6.5...... The Age code of conduct: A workplace approach ......................................... 195
6.6...... Conclusions.................................................................................................. 196

CHAPTER 7
The role of virtue in ethical journalism

7.1...... Introduction................................................................................................... 199
7.2...... Defining ethics: Some important distinctions............................................... 204
7.3...... Four approaches to ethics............................................................................. 210
   7.3.1 ....... Deontological approaches to ethics ............................................... 210
   7.3.2 ....... Teleological approaches to ethics .................................................. 213
   7.3.3 ....... Virtue-oriented theories of ethics .................................................. 215
   7.3.4 ....... System development ethics............................................................ 221
7.4...... Which theories of ethics influenced journalism codes?.............................. 222

CHAPTER 8
Journalism ethics: An alternative model

8.1 ...... Introduction.................................................................................................. 237
8.2 ...... The system of journalistic self-regulation and proposed reforms................. 239
8.3 ...... Best practice in self-regulation (2000).......................................................... 243
8.4 ...... Why is change needed from a practice perspective?..................................... 245
8.5 ...... Media institutions and the public sphere ..................................................... 256
CHAPTER 9
Conclusions

The problem revisited

APPENDICES

Appendix 1 MEAA (AJA) Code of Ethics
Appendix 2 APC Statement of Principles
Appendix 2A APC Charter
Appendix 2 APC Statement of Principles
Appendix 3 Broadcasting Services Act: Sections 3 & 4
Appendix 5 CRA (FARB) Codes of Practice
Appendix 6 ABC Code and Charter
Appendix 7 The Age Code of Conduct

BIBLIOGRAPHY

FIGURES

Figure 1 The Self-Regulatory Environment
Figure 2 Fullinwinder’s Template (repeated on page 105)
Figure 3 Sourdin’s continuum
Figure 4 The constant development process
Figure 5 The process of categorisation and integration
Figure 6 Theoretical continuum of Liberalism and its critiques
Figure 7 Charting ideological influences in Australian journalism
Figure 8 Ideological continuum
Figure 9 Spheres of influence
Figure 10 Public sphere journalism
Figure 11 Relationships between practices and institutions
Table 19 ........ Codified ideologies ................................................................. 197
Table 20 ........ Modern duties reflected in APC code ................................. 224
Table 21 ........ Modern duties within other codes ...................................... 225
Table 23 ........ Mapping the codified virtues .............................................. 230
Table 24 ........ Best practice characteristic of codes and MCC .................... 246
Introduction: the problem

Can the current system of journalistic self-regulation encourage ethical journalism? In the ensuing chapters of this thesis, I argue it cannot. There are a number of reasons for this, but this project focuses on one problem: the conflicting ideologies which frame the interpretation of the journalistic values espoused in the various industry-based codes within the system of journalistic self-regulation in Australia. In this dissertation, I argue current theories of journalism that view it as a product or business are collapsing journalistic ideals with corporate values. These theories are legitimising neo-conservative values that undermine the hallmark qualities of journalistic excellence set out in the various industry-based codes put in place to encourage ethical journalism.

Drawing on classic liberal theory and the modern, conservative and communitarian critiques of liberalism, I aim to distil the ideological foci of the journalism codes. I then argue the conception of journalism reflected in the codes does not accord with contemporary theories of journalism that collapse the journalism/corporation distinction, viewing journalism as a business or product. This misalignment between what the industry views as ethical journalism and what corporations view as journalistic excellence must be taken into account when attempting to reform journalistic self-regulation to ensure ethical journalism is encouraged. Therefore, I argue any attempt to reform journalism ethics must go beyond changing the rules and how they are enforced to look at what journalism is and what it should be. A holistic approach to ethical reform must be taken.

This involves at least two phases. First, reformers must take account of the origins of journalistic ethics. Germane to this is an examination of values reflected in the codes. It also requires an examination of current theories of journalism to identify the ideology that frames how those values are interpreted. This involves an analysis of the extent to which a journalist is an individual autonomous agent or a member of a wider community. The second phase in the reform process needs to
examine how these values are ‘operationalised’ to encourage ethical journalism. This means considering the extent to which the codes reflect the values that ensure journalistic excellence. But it also requires an examination of how the bodies overseeing journalistic ethics interpret these values and the processes put in place to review journalistic conduct.

This thesis attempts to fill a void in the reform of journalistic self-regulation in Australia by first highlighting the shortfall in recent reviews. It then argues reform must address the ideological focus of the journalism industry. This means looking at the ideologies espoused in the industry codes. It also means looking at the ideologies that frame how the values reflected in the codes are interpreted. In summary, my aim in this dissertation is to articulate a praxis-driven theory of journalism by which to examine the suitability of the Australian self-regulatory environment to give effect to ethical journalism. To do this I will identify the virtues that underpin ethical journalism and seek to evaluate whether the existing self-regulatory bodies promote these values given the current media environment.

Rationale

Journalism self-regulation in Australia has focused on codes of ethics, codes of professional conduct and a complex set of processes aimed at ensuring journalistic accountability. Therefore, the focus of journalism ethics has been on reactive accountability processes that rely on third party complaints. Complaints are dealt with in a variety of ways and an array of sanctions can be imposed for failure to comply with the prescribed rules. There also are informal methods of self-regulation such as the Australian Broadcasting Corporation’s television program Media Watch, talkback programs and letters to the editor, but reviews of media ethics have tended to focus on the formal aspects of self-regulation (Commonwealth of Parliament of Australia 2000, MEAA 1999). This study is concerned with the formalised approaches to self-regulation and their ability to encourage ethical journalism within the corporatised media.

It needs to be noted that encouraging ethical journalism is just one of the aims of industry codes. For example, the Australian Journalists’ Association (AJA) code was introduced in 1944 to “give journalists a sense of support” and “a prescription
for proper conduct in carrying out their duties” (Sparrow 1960, 131). While codes perform a number of functions, they are seen as providing ethical guidance, either explicitly or implicitly. Sparrow (1960, 131) noted that journalists saw “integrity and fair play” as the means of advancing journalism and ensuring success. The good character of journalists would ensure journalism maintained its authority as society’s spokesperson. This service ideal reflects a virtue-oriented approach to ethics where good action flows from character traits and morality is a matter of being a good person or, in this case, a good journalist. But the processes and procedures put in place to uphold this service ideal are quite legalistic, suggesting a rule utilitarian or deontological (duty-oriented) approach to encouraging ethical behaviour, where unethical conduct is determined by failure to comply with the rules. In this simple example, there appears a misalignment between the service ideal and the mechanisms put in place to uphold or encourage those ideals.

Since its introduction, the AJA code of ethics was amended in 1984 and 1999. Reviews have resulted in changes to the rules. Despite minor changes to complaint procedures and review, the complaint process is still quite legalistic, which Warren (undated, 2) admits may appear “pompous”, but “it works quite well”. But the question remains: Does it encourage ethical journalism? I will argue it does not. There are a number of reasons that could be put forward for this, but in this dissertation I look at the problem from the most rudimentary level: the approach taken to ethical reform of journalism in Australia. I will argue reviews of codes and the self-regulatory environment have not engaged sufficiently with the question of journalism’s role in society and the extent to which “the ethical journalist (is) an isolated individualist, and to what extent is he/she a communitarian or a committed member of the wider community” bound by a commitment to equality of rights and minimising harm (Black 1997, 5). This question underpins another vexing problem facing self-regulatory reform: the disparity between the values reflected in the codes (journalistic values) and those of the organisations that dominate Australia’s media (corporate values). The increasing trend to treat journalism as a product or business legitimises the substitution of these corporate values for the values seen as defining journalistic excellence. I argue reviews of codes have not considered the suitability of existing processes and procedures to give effect to the journalistic ideals and values seen
as underpinning journalistic excellence. Nor have the reviews engaged in a discussion of what journalism is and what it should be.

These are big picture problems that cannot be solved in one dissertation. But I attempt to highlight the inadequacy of recent reviews by examining how journalists have derived their understanding of ethics. I examine the various codes of ethics and attempt to distil their ideological focus, categorising these values as neo-liberal, classical liberal, modern liberal or communitarian. I then argue the ability of industry self-regulation to give effect to ethical journalism is hampered by the conception of journalism as a business that sees corporate ideology framing the interpretation of journalistic values. Analysis of the various codes reveals a set of liberal values. I argue, however, that the liberal values set out in the codes can be distorted if interpreted from a corporate or industry perspective. Public interest becomes audience interest. Justice becomes fairness for readers and viewers, and respecting the rights of others becomes respecting what the audience wants. This cannot result in ethical journalism.

Reviews of ethics have focussed on the development of codes of ethics and codes of practice. These codes reflect a view of ethics as a process that follows rules or principles or does not unjustifiably harming others: deontological and rule utilitarian approaches to ethics. Much of the literature about journalism ethics is couched in these terms. For instance, Black, Steele and Barney (1995, 41) claim there are only two ways to make ethical decisions: one is to decide what to do by weighing up the consequences of your action (consequentialist); the second is to decide according to the principles of duty (deontology). They claim journalistic ethics are either deontological or teleological (consequentialist). I argue in this dissertation that the analysis of journalism ethics must be expanded to take a system development approach that takes account of journalistic virtues (Petrick and Quinn 1997). By taking a system development approach, the industry can put in place a range of accountability and education schemes that encourage ethical practice at all levels of the profession, including corporate and business structures. However, I argue the starting point should be the grassroots and not the professional bodies overseeing journalistic accountability. Ethical reform must start in the newsroom.
Black et al’s view of ethics seems to be borne out in the most recent review of journalistic ethics in Australia. In April 2000, the Senate Select Committee on Information Technologies released its report *In the Public Interest: Monitoring Australia’s Media Industry*. The report canvassed the various self-regulatory bodies that oversee media standards in Australia, including journalism. The review discussed the various codes of practice utilised by the media industry and canvassed the procedures employed by those bodies. It concluded that a number of improvements could be made including:

1. better and more proactive enforcement of the self-regulatory codes of practice;
2. an increased awareness of and ability to complain about breaches of codes; and
3. increased guidance on the self-regulatory codes of practice that protect an individual’s right to privacy (2000, xi).

The report recommended more rules/guidelines and more infrastructure to review and process those rules. It stated current self-regulatory bodies should continue to operate unchanged but an additional statutory body be established “which will be a one-stop-shop for all complaints and will assist in enforcing standards established by self-regulation” (The Parliament of the Commonwealth of Australia 2000, xi). This report did not consider whether the procedures adopted by the various self-regulatory bodies and a set of rules could encourage ethical journalism. Nor did the review question the role of journalists in contemporary society, which in turn, impacts on what is viewed as ethical journalism. The report ignored the underpinning ideologies espoused by journalism codes and the ability of these service ideals to describe what journalism is, how it is performed and what it should be in the 21st century. Evaluating the code’s ability to describe the role of journalism in contemporary Australian society could help reveal the values being reinforced as ethical. It will also help identify any shortfalls or omissions in the codes and the procedures put in place to ensure accountability and encourage ethical journalism.
An example may help to explain my point about the ideological focus of journalism codes and journalism theories of ethics. In July 2002, former Democrat leader and ex-Labor politician Cheryl Kernot launched her book *Speaking for Myself Again*. Leading political reporter Laurie Oakes challenged this book as a “long whinge” and revealed (without detail) that “Kernot has been protected by journalists too” (Oakes 2002(a), 16). He expanded:

For a long time now, some members of the Fourth Estate have been aware of the biggest secret in Kernot’s life. If made public it would make a lot of people view her defection from the Australian Democrats to the Labor Party in a different light… It is one thing for journalists to stay away from such a matter, however, it is quite another for Kernot herself to pretend it does not exist when she pens what purports to be a true story of her ill-fated change of allegiance.

Australian-based media criticism website crikey.com revealed Kernot’s biggest secret to its subscribers and Oakes later revealed to the Australian public that Kernot’s “biggest secret” was an affair with the Labor Party’s Gareth Evans, who was Foreign Minister at the time. The revelations about Kernot’s “secret” sparked a media debate about the ethics of Oakes’ action in revealing the information, which was essentially private. Others claimed the high profile politicians’ right to privacy was outweighed by the public’s need to know. This case revealed important issues about journalistic ethics that go beyond rights to know, public interest and privacy. It raises questions about the role of journalism and how journalists perceive their role. While the privacy versus public interest debate arising from the revelations about the affair is important; it is not the only problem. Why journalists agreed to keep the affair secret for so long is another problem not satisfactorily addressed by any code. Journalists argue they did not lie or report dishonestly, they simply respected an individual’s right to privacy. In this case, principles were used to legitimise and justify their conduct. As a result, important information about political events was withheld (censored) and history (and the truth of the events surrounding Kernot’s move to the Labor Party) were wrongly recorded.

Here deontological and rule utilitarian approaches to ethics have excused conduct, which was not covered by rules. This creates an environment where essentially unethical conduct can be legitimised because it does not breach the rules. Virtue
theories, on the other hand, require individuals to look beyond rules and consequences and focus on themselves (the agent) and whether they are displaying the traits of character and intellect that ensure excellence. Virtues of character are a mean between habits of excess and deficit. This mean is achieved when the individual has the intellectual habits of reflective practice that permit him/her to resolve the conflicts between excesses and deficiencies of character. The focus of what is ethical is taken from principles and outcomes, requiring an ethical practitioner to reflect on what she or he is doing, and how she or he is performing the task. A virtuous practitioner is one who reflects on his or her professional habits.

Applying a virtue approach to the Kernot case would have seen people reaching very different conclusions about the ethics of the event. Instead of focusing on rules and the outcome of their actions, the debate would focus on the quality of journalism and the person performing journalism. Klaidman and Beauchamp (1987) and Lambeth (1986) have articulated the limitations of traditional approaches to ethics, claiming deontological and teleological theories of ethics are insufficient to found a complete system of ethics for journalism. This dissertation supports that view. I argue any reform of journalism ethics needs to consider how best to encourage ethical journalism and this includes taking account of virtue theories of ethics. I go beyond the arguments of Klaidman and Beauchamp (1987) and Lambeth (1986), suggesting it is impossible to develop virtuous character traits without also addressing the intellectual virtues, which are frequently overlooked in any discussion of journalistic ethics. Therefore, I argue, reform of journalism ethics requires examination of journalistic practice, journalism education and most importantly professional ideology.

In this dissertation, I do not suggest abandoning codes of ethics and professional rules. But I contend that to have a comprehensive system of self-regulation that encourages ethical journalism, the industry needs to look at a system development approach to ethics that targets all stakeholders and all aspects of ethics, including ways of developing virtues of intellect and character. Over-reliance on codes sees journalists weighing up the competing rights, duties and interests of the various parties and asking whether they have breached any rules. By incorporating a virtue approach to journalistic ethics, issues relating to ethical journalism would
focus on the values that underpin journalistic excellence and identifying whether their conduct reflects those values. The focus moves from following the rules and legitimising conduct to evaluating whether the conduct can give effect to journalistic excellence by reflecting the core values of the profession. Journalism can then be treated as a process rather than a single product of an individual journalist or organisation.

I challenge the findings of the Senate Select Committee on Information Technologies (The Parliament of the Commonwealth of Australia 2000) that recommends building another tier of legalistic review processes on top of the existing self-regulatory structure. The processes of reviewing journalism ethics need to be expanded to take account of the industry’s conception of journalism and journalism ethics. Evaluation of the role of journalism requires an investigation into whether journalists are autonomous individuals (a community of one) or members of wider communities. I contend at different times of the journalistic process, journalists will be working as isolated individuals but at other times they will be members of various dynamic communities that influence perceptions of right and wrong. At times, the ethical journalist will be an isolated individual and, at other times, she or he will be a community member. Thus the priority of values underpinning ethical journalism are dynamic. I attempt to articulate a dynamic theory of journalism that takes account of the diversity of roles performed by journalists in order to position my discussion of ethical reform.

In summary, I am seeking to identify journalistic virtues or internal goods that determine excellence in practice, and to evaluate the ability of the current system of journalistic self-regulation to give effect to those virtues. To do this, I return to the origins of journalistic ethics, investigating the influence of liberal theory on the conception of journalism and the institutionalised forms of journalistic self-regulation. I argue that an emphasis on rights, duties and responsibilities has resulted in either deontological or rule utilitarian approaches to media ethics that have failed to embrace a holistic approach. A holistic approach to journalism ethics involves systematising approaches to ethics and fostering a professional environment where ethical journalism is the measure of what is good and vice versa. I conclude the conception of journalism as a product or business conflates
the journalism-corporation distinction and contributes to the ethical problems facing journalism. Finally, I offer an alternative model for journalistic self-regulation that attempts to redress the ideological misalignment arising from the conflating of the journalism-corporation distinction.

**Methods**

To achieve the aims of this dissertation I employ a range of theoretical frameworks. To examine theories of journalism and ideologies of journalism codes, I relate them to current theories of modern society, in particular: neo-liberalism, classic liberalism, modern liberalism and the communitarian critique of liberalism. The first phase of the study analyses a sample of journalistic codes, identifying the key characteristics of professional codes according to Fullinwinder’s template (1996, 72-87). Fullinwinder’s template, which is discussed in more detail in Chapter 1, has been selected because it was highly influential in the Media Entertainment Arts Alliance review of the AJA code of ethics in 1997 (MEAA 1997, 1).

Fullinwinder (1996) believes a professional code of ethics should include three functions: an ideological, definitional and operational functions\(^1\). These categories will be used to identify the characteristics of a sample of journalism codes. Analysis of these codes reveals the industry has adopted a determinative rather than a facilitative approach to dispute resolution, which reflects a deontological or rule utilitarian approach to journalistic ethics. I contend these approaches to ethics fail to take account of the dynamic nature of journalism. Relying on the work of Alasdair Macintyre (1985), I present a praxis-based theory of journalism that can be used to help to evaluate the quality of journalism and to provide a foundation for ethical reform within the journalism industry. In turn, I suggest an alternative self-regulatory framework for journalism that focuses on virtue ethics theories and system development ethics theories.

\(^1\) These functions are explained in more detail in Chapter 2.
The project is grounded in applied ethics as it uses the conceptual tools of meta-ethics and normative ethics to analyse one of the greatest ethical issues facing journalism: the extent to which a journalist is an autonomous individual or a member of a wider community. The methods utilised are numerous and include a literature review, a critical analysis of existing theories, and textual analysis of a sample of self-regulatory journalism codes. As noted already, the objective is to devise a praxis-based theory of journalism and journalism ethics that can inform reform of the self-regulatory bodies overseeing journalism in Australia. Therefore, I have opted for a grounded theory approach to this investigation.

Grounded theory is the “discovery of theory” from systematically obtained data (Glaser & Strauss 1968, 2) which aims to:

1. enable prediction and explanation of behaviour;
2. represent a useful theoretical advance in journalism;
3. be useable in the reform of self-regulatory processes;
4. provide a perspective on ethical behaviour of journalists; and
5. guide and provide a style for future research into journalism ethics (Glaser & Strauss 1968, 3).

Glaser and Strauss note (1968, 31) grounded theory can take many forms. It can be presented as a well-codified set of propositions or in a running theoretical discussion. In this dissertation, grounded theory will be presented as the latter, drawing on many disciplines including moral philosophy, political philosophy (individual’s relationship with society), alternative dispute resolution theory, theories of journalism and journalism ethics as well as theories of business ethics. Given the dynamic nature of my revised theory of journalism ethics – which argues journalistic virtues emerge through a process of conflict and discord arising from the diverse roles performed by journalists – this integrated theory of journalism and journalism ethics requires ongoing dialogue (beyond this dissertation) to ensure self-regulatory processes and procedures encourage ethical journalism.
The aim of this dissertation is to present a theory of journalism and journalism ethics which meets the criteria set out above. In this sense, it falls into the area of study categorised as applied ethics. Applied ethics involves examining “specific controversial issues” and attempting to resolve those issues by using “the conceptual tools of meta-ethics and normative ethics” (Fieser 1997, 1; Richards 2001, 4). The specific focus of this dissertation is on the conceptions of journalism as reflected in the institutional and organisational codes that regulate Australian journalism. Do the codes view journalists as autonomous individuals or members of a wider community (which is variously described)?

Meta-ethics is the study of the origin and meaning of ethical concepts, “investigating where our ethical principles come from and what they mean” (Fieser 1997, 1). Normative ethics “involves a more practical task, which is to arrive at moral standards that regulate right and wrong conduct”. In this dissertation, I critically evaluate journalism self-regulation in Australia and identify the normative standards and ideological focus of the self-regulatory bodies by way of a textual analysis of a sample of self-regulatory journalism codes. These data are used to postulate a theory explaining the origins of those normative standards by categorising the data within the theoretical frameworks of neo-liberalism, classical liberalism, modern liberalism and communitarianism. These theoretical frameworks are used to reveal the ideological core of journalistic self-regulation. The analysis of the normative standards of journalism continues as I identify the theoretical influence of deontological and teleological theories of ethics on the processes and procedures employed by the self-regulatory bodies.

The emphasis of this dissertation is on theory development rather than theory testing. Therefore, I supplement the critical analysis with data derived from a textual analysis of a representative sample of journalism codes. According to Glaser and Strauss (1968, 49), the basic criterion “governing the selection of comparison groups for discovery theory is their theoretical relevance for the further development of emerging categories”. As a result, the researcher must choose “any groups that will help generate, to the fullest possible extent, as many properties of the categories as possible and that will help relate categories to each other and to their properties”.

11
To ground the theoretical discussion of the virtues of journalistic self-regulation, I have selected a representative sample of self-regulatory codes that reflect the ‘reality’ of journalism self-regulation in Australia. The sample of code includes the Media Entertainment Arts Alliance Code of Ethics, the Australian Press Council Statement of Principles, Commercial Television Australia (CTVA), formerly known as Federation of Australian Commercial Television Stations (FACTS) Codes of Practice, Federation of Australian Radio Broadcasters (FARB) Codes of Practice, Australian Broadcasting Corporation Code of ethics, and *The Age* newspaper’s code of conduct. The CTVA and FARB codes are not specifically journalism codes but they do include a section on news and current affairs and therefore have been included in the sample to ensure all aspects of journalism in Australia are covered. The Internet Users Code of Ethics and procedures are not discussed because they do not have a specific section on journalism or news and current affairs.

I will encode and analyse the sample of self-regulatory codes according to the theoretical ideals they espouse and categorise these ideologies according to neo-liberal, classical liberal, modern liberal or communitarian approaches to journalism. This is designed to identify the espoused ideology of journalism that dominates industry conceptions. I then relate this to current theories of journalism to consider the extent to which industry conceptions of journalism have engaged with current debates on the role of journalism in contemporary Australian society. I then encode and analyse the processes and procedures according to deontological, teleological, virtue-oriented and system development theories of ethics to identify the theoretical approach to journalistic ethics.

My method will then involve classifying the data according to the theoretical models I set out in this thesis. Conclusions drawn from this critical evaluation will be used to present a holistic approach to journalism ethics and to identify ways in which the existing self-regulatory system of ethics could be reformed to give effect to more ethical journalism practice.


Structure of this dissertation

In the first chapter, I analyse the sample of codes according to Fullinwinder’s template for professional codes of ethics (1996, 85-87) in order to explain why reform is needed. I categorise the existing self-regulatory framework, characterising the key self-regulatory bodies according to the ideology espoused and the way in which they define the relationships, responsibilities and reasonable expectations of people within those relationships (the three Rs) and the way in which the codes are operationalised. The discussion and analysis in this chapter provide the conceptual framework for encoding a sample of self-regulatory codes and their processes and procedures. The data generated from the analysis of the codes will enable me to characterise the ideological foci of journalistic self-regulation that I will attempt to position within two theoretical frameworks: ideology and conception of journalism.

In Chapter 2, I explain in more detail the methods used to develop a grounded theory of journalism and journalism ethics. I then examine philosophical writings in order to analyse the influence of liberal theory on the way in which the self-regulatory bodies in journalism have operationalised their codes. In Chapter 3, I examine liberal theory and the communitarian and modern critiques of liberalism, arguing the relationship between the individual and the state has been reconceptualised to emphasise the social context in which the individual exists. Journalists and the “institutions” which support journalism cannot be construed as solely individualistic; they are members of communities whose values influence how journalism is done and how journalists perceive their role. In this chapter, I acknowledge that the pursuit of truth, self-fulfilment and the need to participate in democracy are still justifications for freedom of speech. But in modern liberal society, freedom of speech also is essential for individuals to participate in society and community debate that helps identify the values and morals of the various inter-communicating communities that make up the public sphere. The theories of classic liberalism, modern liberalism, neo-liberalism and communitarianism offer the theoretical framework for evaluating the extent to which liberal views of journalism have influenced self-regulatory processes and current theories of journalism. These issues are discussed in more detail in Chapters 4 and 5 where I
seek to ground theories of journalism and journalism ethics in the every day functions of journalistic self-regulation.

In Chapter 4, I outline the second stage of theoretical analysis: the current theories of journalism in Australia. I canvass existing approaches to theorising journalism, identifying the strengths and weaknesses of these approaches in terms of them offering a framework for evaluating the current system of self-regulation. After categorising the approaches to theorising journalism, I further categorise them in a neo-liberal, classical liberal, modern liberal or communitarian framework. I contend that existing theories of journalism do not capture the dynamic nature of journalism.

Relying on the work of Alasdair Macintyre (1985), in Chapter 5 I examine journalism as practice. This provides an alternative theoretical foundation for evaluating the industry’s conception of journalism ethics and the system of ethical self-regulation adopted in Australia.

In Chapter 6, I re-examine the sample of journalistic codes of ethics to identify potential ideological conflicts emerging between the conception of journalism articulated through the codes and the manner in which the code’s common goals and values are operationalised. In Chapter 7, I position the codes examined according to their approaches to ethics, identifying key gaps in their ability to encourage ethical journalism. I argue journalism self-regulation should borrow from the business ethics literature when developing a system of ethical self-regulation. This involves providing facilitative and advisory processes that focus on the ethical culture within newsrooms.

In Chapter 8, I summarise the arguments presented in this dissertation and offer recommendations for developing a holistic approach to reforming journalistic ethics in Australia. Finally, I summarise the key arguments presented in this study in my concluding remarks.
Chapter 1

The self-regulatory environment: A determinative approach to ethics

1.1 The self-regulatory environment

Before attempting to analyse the ability of the current system of self-regulation to give effect to ethical journalism, I will first map the self-regulatory environment in Australia. This means looking at the self-regulatory bodies and the industry they oversee. In this dissertation, I focus on journalism rather that the broader media that includes the information and communications industries, therefore the focus is on print media, television, radio and journalistic use of the Internet. It does not look at the Internet as a communication tool nor does it look at telecommunications.

1.2 Media ownership in Australia

Despite moves towards media convergence both globally and in Australia (Jackson 2003; The Parliament of the Commonwealth of Australia 2002; The Commonwealth of Australia 2003; Quinn 2002; McChesney 2003), regulation and self-regulation of Australia’s journalism industry is medium specific, being divided into print and publishing, broadcasting (which is further divided into radio and television) and the Internet. Predominantly, media organisations are privately owned. However, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (BS) are government-funded broadcasters. Various community-oriented media operate within Australia, but they do not form part of this study.

There is no official register of media ownership in Australia, however, the Australian Broadcasting Authority (ABA) publishes details of broadcasting licensees and maintains a register of associated newspapers. The most accurate record of media ownership in Australia appears to be the Communications Law Centre’s (CLC) Media Ownership Update (usually published annually). The CLC
data formed the basis of the Commonwealth of Australia’s briefing paper on Media Ownership Regulation in Australia (Jackson 2003), indicating the Australian government relies on an independent, non-profit, public interest organisation to track media ownership.

This briefing (Jackson 2003, 6-9) outlined the dominant media owners. News Ltd — a subsidiary of News Corporation and Cruden Investments (a Murdoch family company) — controls the major newspapers in every state of Australia except Western Australia. In terms of share of circulation, it has 68 percent of capital city and national newspaper market, 77 percent of the Sunday newspaper market, 62 percent of the suburban newspaper market and 18 percent of the regional newspaper market (Jackson 2003, 6). According to Jackson, News also has interests in AAP Information Services (along with Fairfax) and a 25 percent interest in Foxtel (pay TV) and News Interactive (online news). John Fairfax Holdings owns 21 percent of capital city and national newspaper market, 22 percent of the Sunday newspaper market, 17 percent of the suburban market and 16 percent of the regional newspaper market (Jackson 2003, 6). West Australian Newspapers Holdings publishes The West Australian and 18 regional newspapers.

APN News and Media, whose largest shareholder is the Irish-based company Independent News and Media PLC chaired by Dr A.J.F. O’Reilly, owns seven metropolitan and one regional radio station, shares a number of radio licences, controls 28 percent of the regional newspaper market (13 titles) and owns more than 50 non-daily newspapers (Jackson 2003, 7). Rural Press Limited, chaired by J.B. Fairfax, controls more than 14 percent of the circulation of daily regional newspapers and controls six radio licenses. It publishes more than 150 newspapers and magazine including The Canberra Times and the company is seeking to increase its ownership in Tasmania (Jackson 2003, 7, 8).

Publishing and Broadcasting Limited (PBL) owns the Nine Network and the magazine publisher Australian Consolidated Press. It controls three metropolitan and one regional television licences, publishes more than 65 magazines (representing 40 percent of the market) and it has a 25 percent interest in Foxtel and a 33 percent interest in Sky News (Jackson 2003, 6, 7). The Seven Network controls five metropolitan and one regional television licences. In 2001, the
company acquired 50 percent of the Australian and New Zealand magazine business. The Ten Group controls five metropolitan television licences while in 2002 Southern Cross Broadcasting had one metropolitan and seven regional television licences. In 2003, it acquired additional television interests. Prime Television has eight regional television licences. WIN Corporation controls one metropolitan and nine regional television licences. DMG Radio operates the largest radio network with five metropolitan and 60 regional licences (Jackson 2003, 7-9).

This reveals Australia’s media environment is dominated by a few key owners, with concentrated interests in one medium. The dominant owners are News Ltd (the Murdoch family), Publishing and Broadcasting (the Packer Family), John Fairfax Holdings, APN News and Media (O’Reilly family), Rural Press Limited (JB Fairfax), Seven Network (Kerry Stokes), Ten Group Ltd (CanWest Global Communications), Southern Cross Broadcasting (Ten Group Limited largest shareholder), Prime television, Village Roadshow, West Australian Newspapers Holdings Ltd, Win Corporation, DMG Radio Australia. However, each medium is also clearly dominated by an owner. News Limited dominates the print industry (68 percent metropolitan and national market, 77 percent Sunday market, 62 percent suburban and 18 percent regional); PBL dominates television (51 percent potential audience) and DMG dominates radio (61 percent population). PBL (ninemsn), with its online venture with Microsoft, and Telstra, are best positioned to dominate the online media environment.

So, how does the industry regulate journalism within that environment?

1.3 The self-regulatory environment

Journalism is one aspect of the media and business interests of these corporations. Their journalistic functions are monitored by a variety of organisations. The business arrangements and corporate dealings of media organisations are scrutinised by the Australian Securities and Investments Commission, the Australian Competition and Consumers Commission and state Offices of Fair Trading, which wield extensive legislative powers. The conduct of journalists and publishers employed in media organisations are also scrutinised by industry-based
self-regulatory bodies. There is no one body that oversees journalism in Australia. The complex self-regulatory environment comprises a range of complaints processes that oversee a variety of codes of ethics and codes of professional conduct, which target both individual journalists and the organisations for which they work. The Senate Select Committee on Information Technologies (2000, 131) depicts the existing complaints-handling procedures in the following diagram:

*Figure 1: The Self-Regulatory Environment*

There are, of course, many informal means of self-regulation including programs such as *Media Watch* on ABC TV. The Media Section of *The Australian* newspaper also looks at ethical issues facing journalists and has feature articles on self-regulatory bodies such as the Australian Press Council and the Media Entertainment Arts Alliance (*The Australian* 2003, 31 July, 10 July, 29 March). Talkback radio, Short Message Service feedback, phone polls and letters to the editor provide opportunities for the public to voice concerns about the quality of journalism.
According to the Taskforce on Industry Self-regulation’s report on Industry Self-regulation in Consumer Markets (2000c, 3-5), self-regulation can take many forms, including information campaigns, service charters, internal complaints handling departments and procedures, accreditation, licensing and membership certification, quality assurance systems, standards, codes and dispute resolution schemes. The taskforce (Commonwealth of Australia 2000c) noted that codes could be either institutional (industry) or functional (products or services that span more than one industry). Journalism appears to employ all of these forms of self-regulation, but the focus of the dispute resolution schemes is on codes. The codes used across the industry are institutional and functional, but in recent years there has been an increasing trend for workplaces to put in place their own codes. These organisational codes provide another layer to the self-regulatory environment as they aim to encourage socially responsible journalism and corporate behaviour. In summary, the codes employed by self-regulatory bodies are institutional, functional and organisational.

Organisational codes include those developed by the Australian Broadcasting Corporation (ABC), Special Broadcasting Service (SBS) as well as workplace codes used by The Age newspaper in Melbourne, the Sydney Morning Herald, and the Herald and Weekly Times, applying to all employees and contributors. The ABC and SBS codes set out in-house complaints procedures that are subject to review by the Australian Broadcasting Authority. The other forms of broadcast media (commercial radio and television, subscription and community broadcast services and the internet) formulate industry codes that also set out internal complaints procedures. The ABA oversees the Australian Subscription Television and Radio Association Codes of Practice (1997), the Commercial Radio Codes of Practice and Guidelines (2001), Commercial Television Industry Code of Practice (1999), and the Community Broadcasting Code of Practice (Television 2003). It also oversees the Internet Industries Association code of practice (2001) that can apply to journalists. The ABA is a statutory body with wide powers of review in areas other than journalism. Although the codes it oversees are introduced by sectors of the journalism industry, the diverse functions of the ABA suggest it is a functional body, reaching across several related industries. Its powers are limited to sanctions against the licensee and not journalists, offering further support to the
observation that the ABA is not an institutional self-regulatory body. For the purposes of present discussions, the codes will be treated as institutional. However, later in this dissertation, I will draw distinctions between institutions and practice that may require re-categorising these codes.

The Australian Press Council deals with complaints about the editorial aspects of magazines and newspapers that are printed and published in Australia. It oversees a set of guidelines that bind member publishers. The MEAA (AJA) code of ethics applies to all journalists who are members of the union, the Media Entertainment and Arts Alliance. Journalists, who are not members of the MEAA, may be bound by workplace codes or their employers may be bound by either a broadcast code or Australian Press Council (APC) principles. In addition to journalism codes, the Advertising Standards Association and the Public Relations Institute of Australia oversee other aspects of industry practice as does the Australian Competition and Consumer Commission. The MEAA code and APC principles are professional or institutional codes. In this dissertation, I focus on the CTVA, FAR, ABC codes and the ABA processes and procedures for review of these codes as well as the MEAA (AJA) code, APC principles and The Age code of conduct as a representative sample of the various codes which regulate journalism practices in Australia.

### 1.4 Aims of codes

Given the different nature of codes that comprise the system of journalistic self-regulation in Australia, some consideration must be given to their respective aims. Increasingly in recent years, corporations (and other organisations) have used workplace codes as a means of deflecting criticism from unknown quarters. This is a legitimate aim of workplace-based codes: a public relations role that attempts to minimise criticism. But workplace codes perform a number of other functions. They define the relationship between the corporation, its workers, shareholders and the public as well as set out what those stakeholders can expect from these relationships. They also seek to encourage social responsibility. In the case of media organisations the aim of workplace codes is to encourage socially responsible corporate behaviour, which should also mean encouraging responsible journalism. Later in this dissertation, I will distinguish between what is ethical and
responsible journalism but, for the time being, I would like to investigate further what is needed to ensure workplace codes do encourage responsible behaviour.

Nijhof, Cludts, Fisscher and Lan (2003, 66) note that codes of conduct are widely adopted by corporations as a way of stimulating and monitoring responsible behaviour. They claim (2003, 66), however, that the existence of a code is not enough to change the conduct of workers and encourage socially responsible behaviour. In short, codes enacted simply for the sake of deflecting criticism focus on organisational legitimacy, offering little hope of encouraging ethical or responsible conduct. Codes have a better chance of encouraging ethical conduct if workers accept the values reflected in them. This means the code must be “embedded” in the processes and culture of the organisation (Nijhof et al 2003, 66). Nijhof et al (2003, 67) believe this requires a two-phase process of first reflecting – across the entire organisation – on the values underlying corporate responsibility. Then, ways of stimulating compliance with the code must be considered (Nijhof et al 2003, 67). If operating within a professional context, the values reflected in the workplace codes must also be considered in relation to professional values.

This discussion reveals a potential problem for journalism self-regulation, which relies on a multi-layered approach to encouraging ethical behaviour. The values that underpin workplace or organisational codes must accord with the professional bodies otherwise there is a potential for conflict. Given the ABA oversees journalism workplace codes, it is important that the values underpinning workplace codes are interpreted by the ABA to give effect to the priority of values as identified by that workplace or organisation. Therefore the ideological focus of the code and the organisation that interprets it become extremely important in the evaluation of any code’s ability to encourage ethical journalism. Conflicting ideology potentially limits the ability to embed these codified values.
In its 1996 review of the MEAA (AJA) Code of Ethics, the MEAA Ethics Review Committee\(^2\) (1997, 1) reported that professional codes had many functions. It agreed with Fullinwinder (1996, 73) that professional codes helped to:

- define the profession;
- “create a community of users”;
- advance moral understanding; and
- develop “virtuous” professionals.

The report (MEAA, 1997) noted that the MEAA code had three additional aims:

- counterbalancing commercial emphasis in journalism;
- responding to concentration in media ownership; and
- maintaining among all sections of the community recognition of the need for a free press, the aim of the original framers of the AJA code.

Cohen (in Cohen & Elliott 1997, 139-140) sees professional codes as providing a sense of professional identity, promoting professional autonomy and outlining ethical guidelines. The Brennan Committee (1996, 113) on the other hand, sees codes as protecting consumers of news and the public from irresponsible, antisocial or propagandistic use of the media. Reporting findings of the Swedish Press Council, which investigated what functions are served by a national code, the Brennan Committee also concluded that codes protect journalists from being forced to act in ways that are irresponsible, humiliating or acting contrary to the dictates of their consciences. They protect journalists from the organisations for which they work. The final objective of a national journalism code was to keep open lines of communication between journalists and information sources and between the media and those who want to indicate, through the media, how they feel about what is being done in their name. The Brennan Committee’s interpretation of a professional code highlights the potential tension between

\(^2\) Commonly known as the Brennan Committee
organisational and institutional codes, emphasising the need for further investigation into the ideology that frames the codified interpretation of journalistic values in Australia.

While the Brennan Committee (1997, 113) sees encouraging ethical journalism as a secondary aim of professional codes, both Fullinwinder (1996) and Cohen (1997) agree that codes provide moral guidelines for journalists. The Australian Press Council (2003) agrees with Fullinwinder and Cohen, stating its principles are designed to promote ethical and responsible journalism (APC 2003, 1). But what is responsible journalism? As will become apparent in subsequent chapters, this depends on the ideological focus from which the values are interpreted. What is responsible journalism to the neo-conservative will be very different to the views of the modern liberal or communitarian. Therefore, it is important when evaluating the ability of the current system of self-regulation to encourage ethical journalism, to look beyond the rules and procedures to identify the ideological focus of the values reflected in these codes. This argument is borne out by Fullinwinder (1996, 73), who argues a code can encourage moral understanding by helping professionals to “see their practices as performance for public good”. But to do this, a code must include these features:

- a preamble which identifies the needs of persons directly served by the profession;
- basic rules of practice outlining the core values and purposes set out in the preamble;
- a way of discussing and responding to questions about the code i.e. interpreting application of the code; and
- a way of enforcing the code (Fullinwinder 1996, 85-87).

According to Fullinwinder’s template, professional codes perform three functions: they outline the professional ideology; they define relationships, responsibilities and reasonable expectations (the three Rs); and they operationalise the three Rs. As Figure 1 illustrates, the ideology espoused – in theory – frames the definition and operationalising of the code.
Figure 2: Fullinwinder's Template

I ideological Function

Preamble
Identifies needs (moral & functional) of persons directly served by profession
and sets out core values and purposes of profession.

Definitional Function

Operational Function

Operational Ways of discussing & responding to questions
Complaints & review

Enforcement
Ways of ensuring code is observed.

Moral Function

Moral understanding
Framed by the professional ideology and the way in which that ideology has
influenced definition of the three Rs and how code is operationalised.

Figure 2 highlights the hierarchical nature of the template, where ideology frames
how a professional code defines its “responsibilities” and sets out ethical and
professional guidelines that uphold those values. It influences the way in which
the profession designs procedures for receiving and responding to complaints,
conducting reviews and enforcing the guidelines. These aspects, in turn, appear to
frame the nature of moral understanding. Therefore, the ability of a code based on
this template to advance moral understanding – as opposed to advancing the
professional ideology – is dependent on the level at which complaints can be
entertained. If the complaints and review process can influence ideology, then
professional codes will be more dynamic and have greater chance of encouraging
moral understanding. If the process is limited to definitional and operational functions, then the codes will tend to advance professional ideology rather than moral understanding. Dynamic codes, which advance moral understanding, should provide a means by which the profession can receive and respond to internal and external criticism about the application of the rules and the values identified as being directly served by the profession (ideology). But given the objectives of organisational codes and their role in institutional self-regulation, this template is applicable to both professionally based codes and “embedded” workplace codes. And it is important to identify the ideological focus of all codes as well as the organisations responsible for interpreting the codified values in order to evaluate the ability of the system of journalistic self-regulation to encourage ethical journalism.

In its review of Australia’s self-regulatory schemes, the Industry Self-regulation Taskforce (2000f, 1-24) distilled common elements of good practice. These included consultation, adequate coverage and publicity, consumer awareness, industry awareness, administration to collect data and monitor schemes, transparency, dispute procedures and sanctions to ensure industry adherence (complaint handling), monitoring and review. Therefore, a professional code – whether operating at a professional or organisational level – should have these essential elements:

- a definition of the professional compact or service ideal;
- the rules of professional conduct;
- a means by which those rules and ideology are interpreted and commented upon (processes and procedures for complaints and handling disputes); and
- a system of enforcement and review of both decisions and ideology.

So how do the MEAA code of ethics and the other professional codes measure up to Fullinwinder’s template?
1.5 The Australian Codes: templates of virtue?

1.5.1 MEAA

The MEAA (AJA) Code of ethics (Appendix 1) applies to journalist members of the Media Entertainment Arts Alliance. The code applies to individuals members, therefore cannot bind publishers or journalists who are not members of the union. The code defines the service ideal, referring to the “public’s right to information”, democracy, freedom of expression, public responsibility. It also refers to journalistic ideals of pursuing truth, honesty, fairness, independence and respect for rights of others. It defines what journalists do and identifies what “the public” can expect from union members by committing journalists to:

- honesty (clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 12);
- accuracy (clauses 1, 2, 3, 4, 5, 6, 7, 9, 12);
- fairness (clauses 1, 2, 4, 5, 6, 7, 12);
- independence (clauses 2, 4, 5, 6, 7);
- respecting rights of others (clause 2, 7, 8, 9, 10, 11, 12); and
- public access to media (1, 12).

Complaints about members must be in writing and lodged with the state branch of the MEAA. The complaint must name the journalist and set out the action believed to be unethical. This must include specifying the provisions of the code that have been breached. The complaint is referred to the National Ethics Panel, comprising 21 journalist members and nine public members. Panel members appoint a chair. The chair appoints three members of the panel to hear complaints, which includes one public member. The panel meets to consider the complaint and can dismiss it, seek further information, or have parties appear before the panel and allow them to call witnesses. If a journalist is “found guilty” of breaching the code, a range of penalties can be imposed including warning, reprimand, fine, suspension or expulsion. The committee’s decision can be challenged before an Appeals Committee (within 28 days of the decision). The committee comprises a five-member panel with two non-journalist members. No member of the original complaints committee can be included in the appeal panel.
Any member of the public can lodge a complaint to the MEAA about the conduct of a union member. This is heard by the MEAA Judiciary Committee. The MEAA has no power to initiate complaints and all complaints must identify the particular points of the code believed to have been breached. The procedures to deal with complaints and to review findings are formal, with the judiciary committee collecting information in a formal hearing and presenting a judgment. The outcomes of the complaints process are judgmental and do not encourage a consensual approach. The procedures for reviewing the code are also formal and judgmental. MEAA journalist members dominate the judiciary committee. Independent lay members are appointed to the national ethics panel from which the judiciary committee is appointed. Of the eight lay members of the national panel, two are journalism educators, five are lawyers and one is an ethicist. The findings are not publicised. Characteristics of the process are:

- it is not holistic because it is limited to the points in the code specified in the complaint;
- information collection is formal, where witnesses can be called and cross-examined;
- rules of natural justice are followed;
- there is no legal representation;
- journalists are found guilty or not guilty of the breach; and
- appeal is limited to errors of fact.

The outcomes of the process are inflexible and limited. Although the judiciary committee must include one lay-member, the majority of lay members are either journalism academics or lawyers. This discussion reveals that the processes are designed to adjudicate on the conduct of the journalists rather than restoring the relationship between the parties to the dispute. The Australian Press Council takes a very different approach.

### 1.5.2 The Australian Press Council

The Australian Press Council, set up in 1976 by Australian print publishers, oversees the ‘ethics’ of the print media. The APC has a two-fold function of
protecting freedom of speech and dealing with complaints about Australian newspapers and magazines. The APC code (see Appendix 2) has a preamble that refers to freedom of the press as the underpinning ideal. This freedom is founded on the public’s right to information and participation in a democratic society. It (APC 1996) also refers to the “right of a newspaper to publish what it reasonably considers to be news, without fear or favor, and the right to comment fairly upon it”. The APC defines the three Rs (relationships, responsibilities and reasonable expectations), specifying that member publishers be committed to freedom of press and the principles set out in the APC’s statement of principles. Implicit in this concept of freedom is an independence from government interference. When dealing with complaints the council will refer to the principles for guidance. The principles commit publishers to:

- accuracy (principle 1, 2, 5, 6);
- honesty (principle 1, 3, 4, 5, 6);
- fairness (principle 1, 2, 3, 4, 5, 6, 7, 8);
- respecting rights of others (4, 6, 7, 8);
- public access (2, 8); and
- independence (preamble).

The APC complaints committee is charged with overseeing complaints. It deals only with complaints about news reports, articles, editorials, letters or images in newspapers and magazines. The council is committed to speedy resolution of complaints and offers mediation in addition to the complaints process. It reserves the right to vary its procedures at any time. Complaints must be lodged within three months of publication. The APC urges complainants to contact the editors directly before lodging a complaint. If unresolved, a complaint can be lodged with the APC. Complaints should be in writing, outlining principles breached. A copy of the publication complained about should be included with the complaint.

On receipt of a complaint, the APC will attempt to negotiate a settlement. If the complaint could involve legal matters, the complainant is asked to waive his/her legal rights before council will proceed with the complaint as the press council
explains (APC 2002, 3): “The council seeks a waiver because it sees itself as an alternative, not a complement, to the courts.” Once a complaint is lodged, the council’s executive secretary has the following options:

- refuse to deal with the complaint (APC 2002, 3);
- refer the matter to another body (APC 2002, 3);
- help “negotiate” a settlement (APC 2002, 2,3,4); or
- refer to publication for comment (APC 2002, 4).

The matter can then be mediated or referred to the council for adjudication (APC, 2002, 4-5). The complaints committee hears the matter and drafts an adjudication which is referred to the full council for consideration. The full council can accept, reject or accept in part the recommendations of the complaints committee. An adjudication is then issued and the complainant can appeal to the APC chair where there has been an error of fact in the adjudication. The chair can deal with the matter personally or refer the matter back to the council. Publication of an adverse adjudication is the only sanction available to the APC.

Any member of the public is free to lodge a complaint to the Australian Press Council. The APC has no power to initiate complaints. Therefore, entry into the dispute resolution process is essentially voluntary for the complainant. Where a complainant is a third party, there is a degree of involuntary entry into the dispute for the people referred to in a story. However, they are not bound to be involved in the complaint process. Parties to the story can opt out of the dispute. Non-appearance of parties does not preclude the APC from adjudicating a dispute. Therefore, entry into and exit from the dispute is both voluntary and involuntary.

The APC is limited to examining the specific issues raised in the complaint. The complainant must identify the complaint in terms of a breach of APC principles. There are no strict rules of evidence, other than requiring the complaint to set out the relevant grounds in writing before the adjudication takes place. The APC secretariat seeks information about the complaint from the complainant and the newspaper or magazine involved. No additional information can be given at the adjudication. If the matter proceeds to adjudication, parties can clarify only
information already before the council. To expedite the complaints process, communication between the parties is limited with the APC secretariat taking on a supervisory role in collecting information. The attitude of the secretariat potentially could influence the collection of information. Characteristics of this process include:

- it is not holistic because the APC can only engage in issues specified in complaint;
- it is issue specific;
- there are no formal rules of evidence;
- there are time limitations on evidence gathering processes;
- there are limitations on the way in which evidence is gathered; and
- a third party (the APC) controls process i.e. collection and interpretation of evidence.

The outcomes of the process are limited to publication of an adverse finding of the council. The council can uphold a complaint, uphold or dismiss a complaint in part, or dismiss a complaint. This process is inflexible as a result of the APC’s limited powers. A determination is made by the complaints committee. Before it hears the complaint, the committee drafts an adjudication to focus discussion. After hearing the complaint, the complaints committee discusses the draft adjudication and makes required changes. The secretary then makes the suggested changes to the adjudication, circulates it to the full council which discusses the complaint. The full council can overrule the complaints committee. The final adjudication is drafted and forwarded to the relevant parties. This process can be summarised as follows:

- it reflects the values of journalism and the APC;
- it relies heavily on precedent;
- there is no power to second experts for advice into the adjudication process (but has power to vary its procedures at any time);
- it reflects bias towards freedom of speech;
• it is non-consensual: parties do not have to agree, majority of council decision; and

• the aim of the judgment is the advancement of freedom of speech and responsible journalism within the prescribed principles.

The dispute process does not aim to restore the relationship between the parties to the dispute, but aims to adjudicate on the “conduct” of print media in terms of the prescribed principles which outline the obligations of print media. In this sense, participation is not promoted. The APC’s only sanction is the publication of an adjudication which tends to attribute blame or exonerate the party involved. The sanctions limit the ability of the APC to restore the relationship between the parties, as it cannot force the publisher to provide public access. The processes adopted by the APC are quite different to the Australia Broadcasting Authority, which has a wider array of sanctions available to it.

1.5.3 The Australian Broadcasting Authority

The Australian Broadcasting Authority is a statutory body (see Appendix 3), but it rejects claims that it is a state controlled mediator of journalistic ethics. The codes of practice it enforces are developed by the industry and complaints for breaches of these codes must first be referred to the broadcaster involved. The ABA becomes involved only if the dispute cannot be resolved at the industry level. Codes it oversees include ACTV (formerly FACTS), CRA (formerly FARB), ABC and SBS codes, the Community Radio Code of Practice and the Internet Industry code. The Australian Broadcasting Authority was set up by Commonwealth statute and commenced operating in October 1992. It replaced the Australian Broadcasting Tribunal, which could not exercise its powers without first conducting an inquiry (Walker 2000, 979). The ABA “is designed to fulfill a more flexible, overseeing role, intervening in the broadcasting industry only where there is real cause for concern” (Walker 2000, 979). Sections 3 and 4 of the Broadcasting Services Act (Appendix 3) set out the objectives of the Act, which are essentially couched in terms of the relationship with the audience. The aims include:
• promoting diversity of content including entertainment, education and information;

• promoting the broadcasting services’ role in developing and reflecting Australian identity, character and cultural diversity;

• encouraging providers to respect community standards;

• providing processes to address complaints about broadcasting services; and


Providing a mechanism for dealing with complaints about broadcasting services is just one of the ABA’s objectives. It is also charged with a positive obligation to understand the needs of the public and private spheres of Australian life and to actively enforce community standards. It does this in a variety of ways, including taking an active role in collecting public information and debating media policy issues. The ABA monitors Australian broadcasting at three levels:

• licensees’ compliance with ABA standards;

• licence conditions, ensuring each licensee “contributes to the provision of an adequate and comprehensive broadcasting service in that licence areas” (*Broadcasting Services Act* 1992, sch 2, cls (2) (a) & 8(2) (a); Walker 2000, 1016); and

• overseeing industry codes.

Although a statutory body, the ABA is still seen as a self-regulatory authority because it oversees industry-based codes. The processes adopted to deal with failures by licensees to comply with these codes are the focus of this dissertation. While essentially upholding professional standards, the procedures adopted by the ABA to determine whether licensees have complied with the industry-based codes are quite formal and legalistic and seem at odds with the ABA’s obligation to reflect community standards and values. The ABA has a specific set of procedures in relation to each complaint:
• a complaint must initially be directed to the licensee (*Broadcasting Services Act* 1992, section 148);

• response is required from a licensee within 60 days;

• the complaint must be in writing (forms are available on the Internet);

• no response or insufficient response within 60 days are grounds for complainant referring the matter to ABA;

• The ABA is bound to investigate unless the complaint is frivolous, vexatious or not made in good faith;

• procedures adopted are at the discretion of the ABA and it is not bound by rules of evidence (*Broadcasting Services Act* 1992, ss 184, 186);

• hearings must take place in public;

• reasonable notice of hearing must be given to the public;

• The ABA has power to summon people to give evidence or to produce documents; and

• It is obliged to publish a report of its findings.

This discussion reveals entry to the dispute is voluntary for members of the public but not for the broadcast station involved. Individual journalists are not parties to a complaint which is directed at the licensee. The ABA has power to initiate complaints after monitoring the Australian media industry. A public complainant chooses when to complain and is free to exit the complaint process at any time before the matter is determined. The ABA may choose to pursue the complaint independently of the original complainant.

Under this system, all public complaints – other than possible breaches of formal program standards and conditions of licence – must be directed to the station accused of breaching the code. Once the complaint is under way, the complainant can exit the process at any stage. The procedures adopted are both formal and informal. The first stage of the complaint process is informal (despite requiring a written complaint to initiate the process), but at this stage there can be a real power imbalance, as complaints from members of the public are directed to
station managers or editorial managers. An interpreter service is available. If a complaint is unresolved at the first stage, then the ABA will deal with it. Copies of the original complaint and the broadcaster’s reply are required to initiate this phase of the complaint process. The ABA has wide discretionary powers to gather evidence to assist in the decision-making process. Failure to provide information as directed by the ABA can result in imprisonment (section 208, *Broadcasting Services Act*). If the ABA decides the station has breached the standards set out in the code, it can issue a notice requiring the station to comply with the standards within a specified period. Failure to comply with the notice may result in the station being fined or its licence being suspended or cancelled.

The ABA chair appoints a panel to hear the complaint. ABA members include chair David Flint, professor of law, deputy chair (management and policy), one full-time member (media), four part-time members, which include two lawyers and two media representatives. Two associate members – one media and one Australian Competition and Consumer Commission representative – are also appointed. Hearings are usually conducted publicly but the ABA has discretionary power to hold confidential hearings. The decisions are majority decisions of the ABA panel, appointed by the chair. Penalties can include fines of up to $2 million for failure to comply with notices. The ABA oversees a variety of codes. A selection of these codes have been included in the sample for this study. They include the ABC, CTVA and FARB codes. I will now examine the key characteristics of these codes.

**1.5.4 Commercial television industry codes of practice**

The ABA oversees a variety of codes. The Commercial Television Industry Codes of Practice are drawn up, in consultation with the public, by Commercial Television Australia, an industry body that represents Australia’s commercial free-to-air licencees. CTVA comprises a representative from each of Australia’s major television networks including Nine, Seven, Ten, Southern Cross Broadcasting, Prime Television, WIN, Swan Television Broadcasters, NBN and Imparja Television. A number of committees offer advice and recommendations in relation to policy and regulatory issues, engineering and technical issues, marketing, industrial relations and other areas affecting the industry, are formed.
Project committees may also be formed to address specific matters. It is currently reviewing the codes of practice that have operated within the commercial television industry since 1999. Draft revisions of the codes were issued for comment on 8 August 2003 (CTVA 2003). Given these changes have not been registered by the ABA, I will focus on the 1999 codes (Appendix 4). The commercial television codes cover a wide variety of broadcasting issues, including general programming and classification issues. Section one of the codes sets out the objectives and regulatory framework There is a specific code covering news and current affairs. This code sets out the key objectives of the industry to:

- ensure accuracy and fairness in news and current affairs programs
- ensure care in presentation of news and current affairs having regard to the composition of the audience and children
- ensure respect for privacy and cultural sensitivity
- encourage impartiality.

The emphasis of the code is on promoting the industry, respecting the sensitivity of the audience and maintaining accuracy and fairness in the presentation of news and current affairs. Independence is not specifically or implicitly noted. The characteristics of the dispute resolution processes have been noted already in the discussion of the ABA.

### 1.5.5 Commercial radio codes of practice

The Commercial Radio Codes of Practice and Guidelines (Appendix 5) operate in a similar way to the CTVA codes. In this study, I focus on the news and current affairs programs code, which emphasises these values:

- accuracy (including distinguishing fact from comment);
- balance; and
- respecting rights of others, particularly privacy.
The codes have been developed by the Federation of Australian Radio Broadcasters, which is now known as Commercial Radio Australia. In 2003, Commercial Radio Australia had more than 249 members, which represented 98 percent of commercial stations on air. The industry elects the CRA board at an annual general meeting. The board includes a chairman, a vice-chairman, a vice-chairman (country) and seven directors. The most recent codes of practice and guidelines were registered by the ABA in 2001. The characteristics of the complaints processes have already been outlined in the discussions relating the ABA. However, before moving on to look at workplace based code, I need to discuss the Australian Broadcasting Corporations’ code, because it differs greatly from the approaches taken by CTVA and Commercial Radio Australia.

1.5.6 ABC code

The ABA also oversees codes that inform the operations of the national broadcaster, the ABC (see Appendix 6), and the multicultural broadcaster, the SBS. With these two broadcasters, instead of issuing notices for breach of licence conditions, the ABA can recommend in writing that specific action be taken to comply with the code. If either broadcaster fails to implement the recommendation within 30 days, the ABA prepares a report to the Minister which must be presented to parliament within seven days of receiving that report (ABA 2001, 39). The ABC code (Appendix 6) includes a preamble which refers to the ABC’s “unique responsibilities” as prescribed by its Charter and emphasising the service’s editorial independence. The ideology of independence frames journalists’ responsibilities to their “audience” and the general public. These obligations include:

- respect for rights of others (Cl 2.1, 2.2, 2.3, 2.4; 4.1 (b), (d), (e); 4.3, 4.4);
- honesty (2.4, 4.1(C));
- accuracy (2.4, 4.1a, c, 4.2 a, b);
- fairness (2.4, 2.5, 4.1 e, 4.2 (a), (b);
- access (Cl 4.1 (a), 4.2 a,b); and
- independence (preamble).
Entry into the dispute (complaint process) is voluntary for the complainant, who can initiate a complaint in writing. The complaints process has three stages. Stage one involves negotiation with the executive management of the section of the ABC accused of breaching the code of practice. In the second stage, serious complaints (bias, lack of balance, and unfair treatment) can be reviewed by an Independent Complaints Review Panel, comprising members of the community appointed by the ABC Board. The panel reports to the Managing Director, who decides action to be taken as a result of the report. No action will be taken if legal proceedings are pending or a complaint has been referred to the ABA. If still dissatisfied, the third phase of the complaints process permits complaints to be referred to the ABA. The final type of code to be examined is a workplace-based one.

1.5.7 The Age newspaper

*The Age* newspaper code of practice (see Appendix 7) will be used as an example of a workplace code. This code has a preamble which outlines the workplace ideology of “fairness, integrity, openness, responsibility and commitment to accuracy and truth”. It reinforces the community focus of journalism and the freedom and responsibilities afforded by the community. It commits journalists and management to standards of professional competence which the community can expect to be upheld. It also contains provisions which deal with professional practice and personal behavior, acknowledging that the obligations of a journalist do not start and end in the workplace: what happens in their personal lives impacts on their professional practice. The provisions dealing with professional practice reinforce the common themes of accuracy (clauses 3, 4, 5, 6, 8, 9, 22), fairness (clauses 3, 4, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 21, 22), balance (3, 4, 5, 8 9), honesty (4, 5, 6, 7, 8, 11, 22), respect (1, 2, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23), access (7, 5), independence (conflicts of interest code). The code covers other aspects such as personal conduct and limiting the responsibility of the organisation where the conduct of an employee is in breach of the code standards. The code attempts to provide guidance on issues such as conflict of interest and public interest. While the code defines the relationships, responsibilities and reasonable hopes of those parties to the relationships, it is silent on how the code is operationalised. *The Age* has a “contact us” page, but no
details are provided as to how external or internal complaints are to be handled. Therefore, it is questionable whether workplace codes such as those introduced at The Age should be categorised as organisational rather than institutional, because they are concerned with the conduct of one aspect of the industry.

This analysis has revealed a number of common characteristics in the ideology, definition and operationalising of the various journalism codes. Given the mass of information set out in this section, the following tables identify the key characteristics of the codes.

This table is designed to illustrate that most journalism codes (within the sample) have followed Fullinwinder’s template, but access to the processes is usually limited to lodging complaints. There are only limited ways in which the public can influence the ideological focus of codes and that is usually limited to formal inquiries and reviews. When enforcing professional codes, two types of disputes can arise. The first type involves claims that a journalist has failed to follow the rules set out in a code, which I will describe as “internal disputes” as they relate to the workings of the profession. The second type of dispute – which does not appear to be acknowledged – involves claims that journalism has failed to give effect to the public good by not adequately identifying the needs of the people directly served. I describe this type of dispute as external, as it relates to the profession’s conception of the public it serves. Existing codes tend to ignore this second tier of dispute, which challenges the stated ideology and how it influences the outcome of a dispute. Some processes, such as those adopted by CTVA (formerly FACTS) and CRA (formerly FARBand), offer an opportunity for input when reviewing the provisions of the code, but all codes require the complaint to be expressed in terms of the code provisions. The ABC and APC internally review their processes and procedures frequently, but the processes and procedures put in place to deal with complaints about journalism do not engage with ideological issues relating to the interpretation of the codified issues. Given the blurring of business and journalistic functions, this highlights an inadequacy with the current system of self-regulation. The key characteristics of the codes studied in this chapter have been summarised in the following table.
Table 1: Summary of characteristics of professional codes in journalism

<table>
<thead>
<tr>
<th>Code</th>
<th>Definition of service ideal</th>
<th>Rules of conduct</th>
<th>Processes and procedures</th>
<th>Enforcement and review</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEAA (AJA Code of Ethics)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes (complaints procedure limited to application of rules)</td>
<td>Yes</td>
</tr>
<tr>
<td>APC Principles</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes (negotiation and complaints) Internal review of rules</td>
<td>Yes</td>
</tr>
<tr>
<td>CTVA (formerly FACTS)</td>
<td>Yes (limited to legislative objectives)</td>
<td>Yes</td>
<td>Yes (two stages) Public consultation on code</td>
<td>Yes</td>
</tr>
<tr>
<td>CRA (formerly FARB)</td>
<td>Yes (Limited to legislative objectives)</td>
<td>Yes</td>
<td>Yes (two stages) Public consultation on codes</td>
<td>Yes</td>
</tr>
<tr>
<td>ABC</td>
<td>Yes (Charter &amp; independence)</td>
<td>Yes</td>
<td>Yes (three stages) Public input on roles via many avenues</td>
<td>Yes</td>
</tr>
<tr>
<td>Workplace codes e.g. The Age</td>
<td>Yes</td>
<td>Yes</td>
<td>Not explicit (rules and ideology)</td>
<td>Not explicit</td>
</tr>
</tbody>
</table>

The key characteristics of the codes discussed in this chapter are summarised in the following tables.

---

3 I have not included the Internet Industry Association Internet Users Code of Conduct because it does not specifically relate to journalism or news.
Table 2: MEAA (AJA) Code characteristics

<table>
<thead>
<tr>
<th>Preamble (ideological focus)</th>
<th>Definitive function relationships</th>
<th>Responsibility</th>
<th>Reasonable hopes</th>
<th>Operational processes</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Truth</td>
<td>MEAA members</td>
<td>Positively defined</td>
<td>Public, sources and news subjects can expect MEAA members to perform journalism in accordance with ideology and rules set out.</td>
<td>Tribunal</td>
<td>Appeal from complaints decision on procedural matters. Review of process not decision. No specific time line for review of code.</td>
</tr>
<tr>
<td>Accountability</td>
<td>Public</td>
<td>Honesty (cl 1, 2, 3, 4, 5, 6, 7, 8, 9, 12)</td>
<td>MEAA members are committed to autonomy &amp; freedom of speech, which facilitates public right to information.</td>
<td>Complainant identifies breach. Complaints panel journalists dominate. Witnesses called. Journalist found guilty or not guilty of breach.</td>
<td></td>
</tr>
<tr>
<td>Public right to freedom of speech</td>
<td>Public Sources</td>
<td>Accuracy (cl 1, 2, 3, 4, 5, 6, 7, 9, 12)</td>
<td>Penalties</td>
<td>Fine Warning Reprimand Suspension Expulsion</td>
<td></td>
</tr>
<tr>
<td>Accuracy</td>
<td>News subjects</td>
<td>Fairness (cl 1, 2, 4, 5, 6, 7, 12)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Honesty</td>
<td>Independence (cl 2, 4, 5, 6, 7)</td>
<td>Independence (cl 2, 4, 5, 6, 7)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fairness</td>
<td>Respect (cl 2, 7, 8, 9, 10, 11, 12)</td>
<td>Respect (cl 2, 7, 8, 9, 10, 11, 12)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independence</td>
<td>Access (cl 1, 12)</td>
<td>Access (cl 1, 12)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Respect for rights of others</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 3: APC Code

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Definitive relationships</th>
<th>Responsibility</th>
<th>Reasonable hopes</th>
<th>Operational processes</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freedom of press</td>
<td>Member publishers</td>
<td>Negatively stated</td>
<td>Public can expect publisher members of APC to publish journalism in accordance with APC ideology and principles.</td>
<td>Complaints process heard by complaints committee. Full council must approve.</td>
<td>Appeals based on errors of fact &amp; inference addressed to chair. Chair can dismiss or refer appeal to complaints committee. Complaints committee can reject appeal or refer to council. Review of principles at any time. Planning retreats conducted.</td>
</tr>
<tr>
<td>Public right to be informed</td>
<td>Public News organisations and sources</td>
<td>Accuracy (pr 1, 2, 3, 4, 5, 6)</td>
<td>Publishers are committed to autonomy and freedom of speech, to facilitate the public’s right to information.</td>
<td>Complaint driven. Complaint must specify breach. Legal waiver required. Negotiation offered. Mediation offered. Formal complaints process. Enforcement: publication of adjudication.</td>
<td></td>
</tr>
<tr>
<td>Participation in democracy</td>
<td>News organisations and audience</td>
<td>Honesty (pr 1, 3, 4, 5, 6)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Publisher autonomy</td>
<td>News organisations and audience</td>
<td>Fairness (pr 1, 2, 3, 4, 5, 6, 7, 8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>News organisations and audience</td>
<td>Respect (pr 4, 6, 7, 8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>News organisations and audience</td>
<td>Access (pr 2, 8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>News organisations and audience</td>
<td>Independence (preamble)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 4: CTVA (formerly FACTS) Code characteristics

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Definition function relationships</th>
<th>Responsibility</th>
<th>Reasonable hopes</th>
<th>Operational process</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accuracy</td>
<td>Licensee and public regarding television programs focusing on social, economic or political issues.</td>
<td>Negatively stated Accuracy (cl 4.3.1, 4.3.11, 4.4.2)</td>
<td>Public can expect programs focusing on social, economic and political issues will be presented in accordance with the ideology &amp; rules set out in code.</td>
<td>Written complaint within 30 days of publication. Must identify material broadcast, nature of the complaint and identity of complainant. Alternatives to written complaints offered. Station must provide written response in 30 days of complaint. Complainant must be advised of right to lodge complaint with ABA. Licensee to report complaints.</td>
<td>ABA hearing. Bound to investigate complaint. Mediation option. Not bound by rules of evidence. Public hearings. Reasonable notice required. Power to summons witnesses or order production of documents. Must publish reports of findings. Review of code every three years. Public comment sought via submissions.</td>
</tr>
<tr>
<td>Respect for audience needs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Respect privacy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultural sensitivity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impartiality</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Table 5: CRA (formerly FARB) Code characteristics

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Definition function relationships</th>
<th>Responsibility</th>
<th>Reasonable hopes</th>
<th>Operational processes</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accuracy</td>
<td>Licensee &amp; public in relation to radio news and current affairs programs.</td>
<td>Reflect &quot;prevailing community standards&quot; (preamble, cl 2.2 c)</td>
<td>Licensee will broadcast in accordance with code. Standards enforced according to prevailing community standards. Licensees will comply with legislative requirements prescribed in Broadcasting Services Act if they comply with the code provisions.</td>
<td>Written complaints to licensee. Complaints dealt with by licensee or nominee of licensee. 30 days to respond to complaint and reply to allegations in 45 days. Complaints not accepted: anonymous, vexatious, frivolous, abuse of process. Complaints must be recorded. Complaints forwarded to FARB or ABA for data collection</td>
<td>Code content reviewed every three years. ABA review of complaint. ABA hearing. Bound to investigate complaint. Mediation option. Not bound by rules of evidence. Public hearings. Reasonable notice required. Summons witnesses or production of documents. Must publish reports of findings.</td>
</tr>
<tr>
<td>Fairness</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protection of community standards and attitudes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public access</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 6: ABC Code characteristics

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Definitive function relationships</th>
<th>Responsibilities</th>
<th>Reasonable hopes</th>
<th>Operational process</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Editorial independence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Internal review</td>
</tr>
<tr>
<td></td>
<td>The corporation and the government</td>
<td>The corporation and Australian people</td>
<td>Corporation will present independent service to Australian public.</td>
<td>Independent of business &amp; government intervention</td>
<td>Internal complaints: Written or oral complaint to ABC.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Reflection of community values.</td>
<td>Complaint referred to relevant department for action (management of area).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Perform unique function in accordance with charter.</td>
<td>ABC undertakes to admit error.</td>
</tr>
</tbody>
</table>

Three stages: Internal complaints: Written or oral complaint to ABC. Complaint referred to relevant department for action (management of area). ABC undertakes to admit error.

Table 7: The Age Code characteristics

<table>
<thead>
<tr>
<th>Preamble</th>
<th>Definition function relationships</th>
<th>Responsibilities</th>
<th>Reasonable hopes</th>
<th>Operational process</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respect freedoms, rights &amp; responsibilities invested by community (audience)</td>
<td></td>
<td>Age management &amp; employees</td>
<td>Employees will conduct themselves in a manner which enhances professional competency &amp; efficiency. Employees’ failure to meet standards will be grounds for management action. Public can expect Age management &amp; employees to meet standards set out.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Principles of merit, responsible management</td>
<td></td>
<td>Age employees and other employees</td>
<td>Employees will conduct themselves in a manner which enhances professional competency &amp; efficiency. Employees’ failure to meet standards will be grounds for management action. Public can expect Age management &amp; employees to meet standards set out.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional competency &amp; efficiency</td>
<td></td>
<td>Public has accorded The Age freedoms and responsibilities</td>
<td></td>
<td></td>
<td>None stated Implication that code intended for internal disputes.</td>
</tr>
<tr>
<td>Maintaining public trust</td>
<td></td>
<td>The Age and the MEAA.</td>
<td></td>
<td></td>
<td>None stated Implication that code intended for internal disputes.</td>
</tr>
</tbody>
</table>
These tables reveal the essential features of the institutionalised approach to journalism self-regulation in Australia: the ideological focus of the codes as set out in the preamble; how the organisation or institution defines its relationships, responsibilities and the reasonable hopes of stakeholders. Finally, they reveal how the organisation or institution deals with internal and external complaints. The tables will be revisited later in this thesis when I attempt to identify and position the codified values within a theoretical framework and compare these ideologies to contemporary theories of journalism. In this thesis, I am dealing with two broad theoretical issues. The first is the extent to which current theories of journalism legitimise the substitution of corporate values for the codified values seen as hallmarks of journalistic excellence. The second question relates to whether the conception of journalism reflected in the codes limits the industry’s self-regulatory approach to a deontological and rule utilitarian paradigm. Before moving on to categorise the codes into their theoretical classifications, I will map in more detail how the bodies overseeing the various codes approach dispute resolution.

1.6 How codes are operationalised

The above tables reveal two types of approaches are taken to handling complaints about journalism. The first are informal (mediation approaches) where the complaint is deal with by negotiation between the complainant and the organisation about whom the complaint is lodged. The second method is determinative, where a board or panel is put together to deal with the complaint. The level of formality varies between the highly legalistic approaches of the MEAA and the more informal but still determinative) committee approach of the Australian Press Council. So, what other options are available for handling complaints? This question involves canvassing literature relating to alternative dispute resolution (ADR).

1.7 Dispute resolution options

The National Alternative Dispute Resolution Advisory Council (NADRC) (AGPS 1997; Sourdin 2002, 16) classifies dispute resolution processes as facilitative,
advisory or determinative. Sourdin (2002, 16) explains that all three processes involve third parties but the type of involvement differs as follows:

- facilitative processes: the third party plays no advisory or determinative role. Instead, they assist in managing the process of dispute resolution. Examples include mediation, conciliation and facilitation (Sourdin 2002, 16);

- advisory processes: third party investigates and provides advice on the facts and possible outcomes of the dispute. Examples include investigation, case appraisal and dispute counselling (Sourdin 2002, 16); and

- determinative processes: Third party investigates and determines outcome of dispute. Examples include adjudication and arbitration (Sourdin 2002, 16).

Sourdin (2002, 34) concludes that these processes can be classified as either decisional or facilitative, but many alternative dispute resolution (ADR) schemes include characteristics of both. She views the dispute resolution processes as a continuum – at one end is negotiation (which is the most often used form of ADR) and at the other end is arbitration which is the least used option. Sourdin’s continuum (2002, 18) “maps” the processes as set out on the next page.
Where do the journalism codes fit on the Sourdin continuum? The following table reveals the type of ADR procedures used in self-regulation of journalism.
Table 8: **ADR characteristics of journalism self-regulation**

<table>
<thead>
<tr>
<th>Code</th>
<th>Process</th>
<th>Stage two</th>
<th>Stage three</th>
<th>ADR classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEAA</td>
<td>Mini trial</td>
<td>Adjudication, with some flexibility of process</td>
<td></td>
<td>Determinative</td>
</tr>
<tr>
<td>APC</td>
<td>Mediation with APC appointed mediator</td>
<td></td>
<td></td>
<td>Facilitative &amp; determinative</td>
</tr>
<tr>
<td>The Age</td>
<td>No procedure set out. No third party nominated to deal with complaints</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABA (CTVA &amp; CRA)</td>
<td>Negotiation with broadcaster. Broadcaster decides outcome (not third party) Expert determination</td>
<td>Arbitration by ABA, with some flexibility in procedures (determinative)</td>
<td>Facilitative and determinative (more determinative)</td>
<td></td>
</tr>
<tr>
<td>ABC</td>
<td>Negotiation with ABC executive (not third party) Expert determination</td>
<td>Independent Complaints panel Expert determination</td>
<td>ABA hearing Arbitration with some flexibility of procedures</td>
<td>Determinative</td>
</tr>
</tbody>
</table>

This table suggests reveals that the ABC and ABA utilise expert determination as a means of resolving disputes. But the question remains for consideration, who is an expert in terms of journalism ethics? This issue will be canvassed in more detail in later chapters. But for now, I will focus on the definition of expert. According to the Macquarie Dictionary, an expert is “a person who has special skill or knowledge in some particular field” or a person who “possesses skills or knowledge” or “is trained in practice” (Delbridge 1985, 619). In his stages of development of expertise through reflective activity, Jolly (1999) describes an expert as a person who acts by instinct and is unaware of the rules. But when considering the expert involved in determining complaints about journalism, should the expert be a journalist, a consumer of news, an ethicist, a representative of an aggrieved group or an impartial observer? These questions will be addressed in more detail in later chapters. I will adopt the view that an expert is a person who acts by reflective habit because he/she possesses the virtues of intellect and character that ensure professional excellence and ethical practice.

---

4 Alternative Dispute Resolution
1.8 Conclusion

In this chapter I have described the self-regulatory environment in which journalism operates in Australia. The environment comprises various bodies, which to varying degrees seeks to uphold journalistic values of accuracy and truthfulness, honesty, fairness, independence and respect for the rights of others. Table 8 identifies the alternative dispute resolution characteristics of the self-regulatory processes in journalism. It reveals that although journalism is self-regulated by a variety of institutional, organisational and functional codes, the complaints processes adopted are essentially determinative rather than facilitative. I argue that this determinative or legalistic approach to ethics is one factor contributing to journalism’s alienation from the public, which in turn, restricts the ability of professional codes enforced in this manner to give effect to ethical journalism. Government reviews of media regulation have focused on how to encourage compliance without reflecting on the institutional interpretation of how the values underpinning the codes are interpreted (Commonwealth of Australia 2000, 2003). This chapter has highlighted the different functions performed by codes. It reveals an important distinction that needs to be taken into account when looking at the ability of the current system of journalistic self-regulation to encourage ethical journalism. This lies in the difference between institutional legitimacy, morality and ethics and accountability. I have suggested codes need to perform all three functions to encourage ethical journalism. But a balance must be struck. To evaluate whether this balance has been struck, reviews of journalism ethics need to go beyond the rules, guidelines, processes and procedures to consider the ideological focus of the codes. I develop a theoretical framework for doing this in chapters three, four and five, where I articulate a grounded theory of journalism practice through a process of continual comparison and evaluation. In the next chapter I explain that process.
Chapter 2

A grounded theory approach to journalism

2.1 Introduction

In this thesis I am concerned with inductive theory construction based on a specific problem relating to the ability of the system of journalistic self-regulation in Australia to give effect to ethical journalism. This research problem emerged from a review of literature on industry self-regulation and journalism ethics. While one aim of journalism self-regulation is to encourage ethical journalism (MEAA 1999, APC 2002, *The Age* 1998), the review of literature revealed few studies into the relationship between self-regulation and ethical conduct. In particular, I want to investigate the relationship between how journalism is conceptualised by self-regulatory organisations and the priority of values seen as hallmarks of excellence within the various codes that regulate journalism. This means identifying the ideologies underpinning institutionally entrenched views of journalism and evaluating how this has influenced the way in which ethical values are encouraged.

To do this, I plan to apply a flexible methodology that allows the development of an emergent theory based on raw data derived from the various codes that operate within the journalistic self-regulatory environment. The research problem starts broadly, looking at the ability of the current system of journalistic self-regulation to encourage ethical journalism. The focus of the study is on organisational ideology and conceptions of journalism, rather than individual values of journalists. By broadly defining my research problem I have the flexibility and freedom needed to study journalistic self-regulation in depth (Strauss& Corbin 1990, 37). Through a process of constant comparison I will focused the research problem, constructing a theoretical framework to evaluate whether the current system of journalistic self-regulation can encourage ethical journalism. To achieve these objectives, the study will canvass both process (the ability of self-regulation to give effect to ethical journalism) and action (building a theoretical framework for conceptualising reform). Therefore, I need a research method that offers a way
of categorising conceptions of journalism and self-regulation. By developing a 
grounded theory of journalism, I will be able to achieve these aims.

After mapping the self-regulatory environment and canvassing various theories of 
an individual’s relationship with society, the categories for comparison will 
become apparent. In order to evaluate the ability of the current system of self-
regulation to give effect to ethical journalism, I need to do a number of things:

1. Identify how self-regulatory bodies conceptualised journalism.

2. Distil the aims of self-regulation.

3. Gain an insight into what is perceived as ethical journalism.

More importantly, I need to explain the relationships between an organisation’s 
conception of what journalism is; the aims of self-regulation; and its 
understanding of what is ethical, in order to evaluate the ability of self-regulatory 
 bodies to encourage ethical journalism. In short, the theory I plan to develop needs 
to explain what journalism is, how it is done and what it should be. Through a 
 process of conceptual categorisation and constant comparison, I will synthesise a 
grounded theory of journalism that does this. This approach to identifying an 
alternative self-regulatory model has many parallels with action research, 
described by Dick (2002, 2), as a “flexible spiral process which allows action 
(change and improvement) and research (understanding, knowledge) to be 
achieved at the same time”.

2.2 Elements of grounded theory

Grounded theory is a process of continual comparison and evaluation. It is a form 
of conceptual mapping, which shapes the collection of data through a process of 
hypothesis or proposition building and integration (Glaser & Straus 1967; Straus 
& Corbin 1990; Pandit 1996). This comparative analysis approach to generating 
theory suits this study because it provides a theory derived from substantive data 
(how the industry self-regulatory bodies describe journalism, their role and the 
values seen as hallmarks of responsible journalism). But in a broader sense, the 
focused nature of grounded theory suits the changing media environments as it
addresses specific problems and inductively builds theory from data collected on that problem. Given the diversity of problems facing journalism (on a national and international level) this approach may be more helpful in identifying ways of improving journalism than reliance on grand theory.

In this study the specific problem is the ability of the current system of self-regulation to give effect to ethical journalism. It questions recent approaches to reforming self-regulation of the media (Commonwealth of Australia 2002, 2003) which build on and integrate the existing self-regulatory environment, treating journalism as just part of the general media environment. Can this approach to self-regulation encourage ethical journalism? In order to answer this question I need to describe the current system of self-regulation and to conceptually map it, according to approaches to self-regulation, ideology, approaches to journalism and approaches to ethics. The characteristics of this theory development process ensures that the emerging theory has the substance to offer a solid foundation for progressing understanding of journalistic ethics and the flexibility to take account of the changing media and business environment in which journalism operates. The value of grounded theory is not the data per se, but the way in which that data are conceptualised for analysis (Corbin & Strauss 1990, 7; Pandit, 1996, 1). Thus the most important aspect of grounded theory development is the manner in which the research processes are conceptualised for analysis through a process of constant comparison.

Glaser and Strauss (1968, 105) identify four stages of the constant comparative method as initially comparing incidents applicable to each category, integrating categories and their properties, delimiting the theory, and writing the theory. In this study these processes occurred in the following way:
<table>
<thead>
<tr>
<th>Stage</th>
<th>Activity</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Research design</td>
<td>Definition of research question&lt;br&gt;Review of code of ethics&lt;br&gt;See Introduction</td>
<td>Gap in research identified in terms of relationship between how journalism is conceptualised and the manner in which self-regulation implemented &amp; the values upheld in the codes</td>
</tr>
<tr>
<td>2. Data collection</td>
<td>Sampling of codes (representative of each type of code from each medium except online, which does not have a section on journalism or news/current affairs)&lt;br&gt;Created a database of codes&lt;br&gt;See chapter 1</td>
<td>Sample needed to reflect the organisational conceptualisation of journalism. Essentially attempting to identify underpinning ideologies that have influenced understanding of journalism &amp; journalism ethics.</td>
</tr>
<tr>
<td>3. Data Analysis</td>
<td>Categorisation process*&lt;br&gt;Category 1: approach to self-regulation&lt;br&gt;Category 2: Ideology (philosophy)&lt;br&gt;Philosophic writing provided properties. (more data collected from other databases)&lt;br&gt;Category 3: Conception of journalism.: Literature on journalism, codes &amp; other data (collected from other textual databases)&lt;br&gt;Category 4: Conception of ethics: Literature on ethics, data collected from examination of codes and data from other studies.&lt;br&gt;Process of theoretical sampling&lt;br&gt;See chapters 3 &amp; 4</td>
<td>Data derived from code helped identify key properties within category one.&lt;br&gt;Conceptualising the categories for investigation and integration, focused study to the relationships between conception of journalism, ideology and values upheld.</td>
</tr>
<tr>
<td>4. Integration</td>
<td>Additional data collected, according to the relationships being explained.&lt;br&gt;Data collection repeated until theoretical saturation&lt;br&gt;See chapters 6&amp;7</td>
<td>Additional non-technical literature used to investigate the relationships between the properties within each category, thereby offering analysis on which to develop and delimit theory</td>
</tr>
<tr>
<td>5. Theory writing &amp; recommended action</td>
<td>Compares conflicting and similar frameworks. Two phased process: Writing theory of journalism as practice (chapter 5) and the evaluation of theory of journalism to provide alternative model for self-regulation of journalism chapter 8</td>
<td>Progressive theory development. Theory developed within Chapter 5 and refined in Chapter 8 offering a substantive theory on which to model self-regulatory reform.</td>
</tr>
</tbody>
</table>
2.3 Data used in study

I will start the grounded theory development process by mapping the self-regulatory environment, in order to define the research problem. The research problem was couched in broad terms in order to investigate journalistic self-regulation deeply. This was done by reviewing both technical and non-technical literature relating to journalism self-regulation. So what is technical literature? Technical literature includes reports of research studies and theoretical or philosophical papers characteristic of professional and disciplinary writing (Straus & Corbin 1990, 48). It can be used to help stimulate theoretical sensitivity by providing concepts and relationships that are evaluated against actual data (Straus & Corbin 1990, 50). I will utilise theoretical works in the areas of journalism, philosophy, ethics and alternative dispute resolution to help map the categories and properties to be investigated in order to explain the relationships between institutional conceptions of journalism and the values upheld in the various self-regulatory codes.

Strauss and Corbin (1990, 52) outline three other uses for technical literature. They explain that this type of literature can be used as secondary sources of data. It also helps to stimulate questions and direct theoretical sampling. Finally, it can be used as a supplementary validation, by using it to evaluate the accuracy of findings or highlighting differences. In this study, I will draw from literature in the areas of journalism, ethics, philosophy and alternative dispute resolution in all of these ways.

Straus and Corbin (1990, 48) define non-technical literature as “…documents, manuscripts, records, reports, catalogues and other materials that can be used as primary data”. They explain (1990, 55) that non-technical literature plays an essential role in grounded theory studies, particularly when studying organisations. The authors conclude: “Much can be learned about an organisation, its structure and how it functions (that may not be immediately visible in observations or interviews) by studying reports, correspondence and memos.”

Grounding this analysis on technical and non-technical literature may be viewed as a limitation of the study. However, because I am investigating the relationship
between organisational ideologies, the conception of journalism and the journalistic values upheld by self-regulatory bodies, the non-technical literature of the various organisations offer the best insight into the ideologies that underpin their conception of journalism. The main focus of the study is organisational ideologies. By this, I mean the ideologies that frame the journalistic industry and the self-regulatory bodies that oversee the standards of journalism in Australia. To ensure data are not skewed by personal ideologies, the sample will be quarantined to the non-technical literature of the various organisations involved in self-regulation. I will use examples of how these documents have been interpreted and reviewed by the various self-regulatory bodies to supplement this analysis and to assist with the integration of the various categorisations. Therefore, the data collection starts with the various codes enacted by the self-regulatory bodies. As the comparative process continues, different types of raw data will be collected and included. These will be evaluated in light of technical literature from a variety of fields – philosophy, journalism theory, theories of ethics and alternative dispute resolution theory – in order to achieve what Glaser and Strauss term “theoretical saturation”.

2.4 The comparative analysis process

In grounded theory, data collection and data analysis is a progressive or emergent process. As mentioned already, the process starts with a review of technical literature, by which the research problem is widely defined. Journalism ethics and self-regulation is a particularly wide area of research, making it impossible to read and analyse every study. However, the technical literature helps to identify and delimit the research problem. It is also useful in developing the categories by which the non-technical literature (which form the basis of the data collection process) is analysed. This process of comparing the various categories and classifications of the encoded data help to delimit the theoretical objectives of my study. I acknowledge that much of the technical literature canvassed here aids the understanding and study of journalism and journalism ethics. But when considering the ability of the current system of self-regulation to give effect to ethical journalism, it will become apparent that the literature does not offer a complete description of what journalism is, how it is done and what it should be.
Therefore, when looking to reform journalism self-regulation in Australia, a theoretical framework is needed that helps to evaluate the capacity of a system of self-regulation to encourage ethical journalism.

The technical literature of various studies into professional codes of ethics (that went beyond journalism) help to identify the key properties within the first category of comparison. Fullinwinder’s model (outlined in Chapter 1) has provided a good framework for this analysis, particularly given its influence in the formulation of the revised MEAA (AJA) Code of Ethics. From this analysis, I have developed a framework for encoding a representative sample of journalism codes according to their service ideal (which I will later use to shed light on the organisation’s ideological approach to journalism, journalism ethics and self-regulation); rules and processes, procedures and review. These findings were presented in tabulated form in Chapter 1, where I categorised them according to ideological, definitional (rules) and operational aspects (processes, procedures and review).

The non-technical literature of the various self-regulatory bodies will provide the raw data used to map the relationships between the various self-regulatory codes in accordance with the properties identified through the review of technical literature. The various codes reveal a number of commonalities in that they have a service goal (in which some organisations describe journalism), rules to be followed and the processes and procedures used by that organisation. Therefore, in the first conceptual category, the process includes investigating the extent to which codes reveal these common characteristics, then mapping the similarities and differences in the way in which they describe their service ideal, the rules/values being upheld and the processes and procedures used. By comparing the various codes, I aim to re-conceptualise the research question into two general issues:

- To what extent, if any, does the institutional or organisational conception of journalism (as stated in the codes’ service ideal) influence the approach to self-regulation?
- Can this approach to self-regulation encourage ethical journalism?
Having identified the core characteristics of the codes and mapped the similarities and differences between the codes, I plan to further explore particular aspects of the organisational approaches to self-regulation. In particular, I need to examine the relationship between ideology, conceptions of journalism and conceptions of ethics. Philosophic writings (canvassed in Chapter 3) will provide the general conceptual categories by which aspects of the codes will be encoded for further comparison. Strauss and Corbin (1990, 51) note the important role of philosophic writings in approaching and interpreting data. By categorising the codes into a *classical liberal, modern liberal, neo-liberal* and *communitarian* framework, I will map their ideological foci and those of the self-regulatory bodies.

But, as stated previously, the general problem I examine here has two other aspects: the institutionalised conceptions of journalism and journalism ethics. Again the technical literature on these issues provide a framework for encoding the various self-regulatory codes of ethics and their processes and procedures. Philosophic writings on identity provide the core comparative category for this study. The *classic liberal, modern liberal, neo-liberal* and *communitarian* frameworks provide a means by which substantive conclusions will be drawn about the ideologies that dominate institutional and organisational conceptions of journalism. This provides a framework for investigating the relationship between conceptions of journalism and approaches to ethics that aids in the evaluation of whether the current system of journalistic self-regulation can encourage ethical journalism. Therefore, the core categorisation for this study is founded on the various theories of an individual’s relationship with society. The conceptual properties for this comparison are *classic liberal, modern liberal, neo-liberal* and *communitarian* theories, which are used to distil the ideologies that dominate institutional and academic approaches to journalism and journalism ethics. I will use a variety of coding methods to chart these influences including continua and comparative tables. There are two other categories I plan to use to map the relationship between ideology and the ability of self-regulation to give effect to ethical journalism. These conceptual categories are approaches to journalism and approaches to ethics and they are further classified according to key properties, identified through a review of relevant literature.
To summarise the comparative analysis process, the most important element is the conceptualisation of the comparative categories. These were devised through a progressive process of data collected through textual analysis of both technical and non-technical literature. The categories explored are complex, but they can be depicted as follows:

**Table 10: Conceptual categories**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Conceptual categories</th>
<th>Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase one</td>
<td>Approach to journalistic self-regulation</td>
<td>Ideology (service ideal)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rules</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Processes &amp; procedures</td>
</tr>
<tr>
<td>Phase two</td>
<td>Individual identity (ideology)</td>
<td>Classic liberal</td>
</tr>
<tr>
<td>(Core)</td>
<td></td>
<td>Modern liberal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Neo-liberal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Libertarian</td>
</tr>
<tr>
<td>Phase three</td>
<td>Conception of journalism</td>
<td>Functional</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Value-added functional</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Institutional perspective</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commodity theory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cultural practice</td>
</tr>
<tr>
<td>Phase four</td>
<td>Approaches to ethics</td>
<td>Deontological</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Consequentialist (rule utilitarian)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Virtue</td>
</tr>
<tr>
<td></td>
<td></td>
<td>System development</td>
</tr>
</tbody>
</table>

This approach provides the conceptual framework for mapping the relationships between organisational ideology, conceptions of journalism, approaches to self-regulation and the values upheld by the various self-regulatory codes. This was done through a process of continuing comparison and integration in order to delimit the theory developed. This process can be summarised in this way:
The conceptual properties, identified within the various comparative categories, as set out above, provide the essential focus to make this research project workable. They delimit the study, focusing attention on the key relationships between conceptions of journalism, conceptions of ethics and approaches to self-regulation and the dominant ideology reflected in the various codes. By taking a grounded theory approach, I plan to discover new categories for investigation in the area of journalism ethics and self-regulation while also exploring the relationships between them (Straus & Corbin 1990, 49). Through this process of continuing comparison, I aim to explain the link between the conceptions of journalism as reflected in the industry code and the ability of the system of self-regulation to
give effect to ethical journalism. In this process, I will highlight the relationships between the dominant conceptions of journalism and the industry perspectives on ethics. I aim to reveal that by viewing journalism as a commodity, market values replace those values commonly identified within the codes as hallmarks of journalistic excellence. As a result of this process, I plan to develop an alternative theory of journalism as practice that seeks to explain the gaps identified in the current research in relation to reforming journalism self-regulation and institutionalised approaches to encouraging ethical journalism.

The data derived from textual analysis in this study will help to identify the gaps in existing studies into self-regulatory reform. It will also link these gaps to the manner in which journalism and journalism ethics have been conceptualised, both within the technical and non-technical literature. Using the data derived from how the journalism industry describes itself, I will offer a theory of journalism as practice. Through a process of integration, where I apply the theory of journalism as practice to the current self-regulatory framework, I will identify weaknesses in the current approach to self-regulation. This process will provide the final layer in developing a complex theory of journalism and journalism ethics. I will then use this theory to present an alternative model for journalistic self-regulation that should encourage ethical journalism. This integrated approach to developing a complex theory that fits a specific problem is one of the aims of grounded theory (Glaser & Straus 1968, 114).

Through this process of constant comparison and integration, I will develop a substantive theory of journalism and journalism ethics, which I will describe as a theory of journalism as practice. It will describe what journalism is, how it is done and what it should, thereby offering the complete theoretical framework by which to evaluate the ability of the current system of self-regulation to give effect to ethical journalism. The interpretation of this substantive data may be abstracted further to offer an alternative explanation of journalism in contemporary society. However, to develop this study into a formal theory of journalism, additional data gathering is required. Currently, the theory explains the institutional conceptions of journalism and journalism ethics. To be a formal theory of journalism, this study needs to be expanded to gather ethnographic data from individual journalists.
2.5 Sampling and coding

The raw data used in this study were chosen because of their theoretical relevance to the research problem. Raw data initially were derived from the various codes of ethics and codes of professional conduct that are utilised to regulate journalism. All of the codes were collected and then a representative sample selected that represents a cross-section of the self-regulatory process. I decided to evaluate one example of each type of code to ensure that one approach to journalism self-regulation did not dominate the coding process. As noted already, the sample included the MEAA Code of Ethics, the APC statement of principles, the CTVA (formerly FACTS) and CRA (formerly FARB) codes of practice, the ABC code of ethics and *The Melbourne Age* code of conduct. The sample includes codes of ethics, codes of conduct and codes of practice. All three types of codes are utilised in the current system of self-regulation, raising the question as to whether the aim of self-regulation is to encourage ethical journalism. This is not the focus of this study. The question I consider is whether the current system of self-regulation *can* encourage ethical journalism: a subtle but important distinction. Community-based codes were also excluded from the study, as the focus was on the institutional framework that supports self-regulation of commercialised journalism. Although the ABC is a national broadcaster, it is hosted in a corporate structure.

The selection of raw data because of their theoretical relevance to the research problem being investigated is a process described as “theoretical sampling”. Glaser and Strauss (1968, 45) describe this approach as the “process of data collection for generating theory whereby the analyst jointly collects, codes and analyses his (sic) data and decides what data to collect next and where to find it”. The process of categorisation and integration explained earlier reflects the theoretical sampling process I will undertake in this study. It is a four-phased process:
The regulatory codes were encoded by making notes in the margins. These notes were used to help categorise the codes in terms of their service ideal, rules and processes and procedures. I have developed tables mapping the key findings of this analysis (Chapter 1). The key issue to emerge from these data related to ideology and the conceptualisation of journalism. Therefore, I need to analyse further the relationship between codified ideology, the conceptualisation of journalism and the values upheld by the code. This has meant investigating the relationship between these concepts and inquiring what effect these relationships have on the ability of a code to encourage ethical journalism. In the ensuing chapters, I will canvass philosophic writings and various theories of journalism identifying particular properties (set out above) that need to be examined. In exploring the relationships between notions of individual identity and conceptions of journalism, I then chart the ideologies that dominate journalism and journalistic self-regulation in Australia. The coding process again involves making marginal notes on a sample of codes. But I also take account of other documents, thus adding to the textual analysis database to increase diversity and reliability of the emerging data. These other documents include adjudications of complaints about journalists, explanatory documents relating to processes and procedures, annual reports, review documents, government and official inquiries, organisational
charters, founding or grounding legislation, and similar official documentation. In this sense the sampling is emergent (Dick 2002, 7).

The general method of coding undertaken in this study is selective, which is a “process of selecting a core category, systematically relating it to other categories, validating those relationships and filling in categories that need further refinement” (Straus & Corbin 1990, 116). The key steps in selective coding are explicating the story line, relating the subsidiary categories around the core category; relating categories at the dimensional level; validating the relationships and filling in categories (Straus and Corbin 1990, 117-118).

The story line which forms the basis of this study is how the self-regulatory organisations describe their service ideal and journalism. The various conceptions of journalism, journalism ethics and approaches to ethics are then classified according to classic liberal, modern liberal, neo-liberal ideologies. Based on this analysis, I argue the various conceptions of journalism adopted by the codes and journalism commentators do not fully describe what journalism is, how it is done and what it should be. Therefore, an alternative theory is needed in order to evaluate the ability of the current system of self-regulation to encourage ethical journalism. I use the data derived from this analysis to proffer a view of journalism as practice. Having proffered this view, I will then apply this theory of journalism to the current codes in order to identify the values being upheld. This is the process by which I validate the relationships and help to fill any gaps in the theory of journalism as practice.

As I have already acknowledged, the raw data used in this study is limited to textual analysis of technical and non-technical literature, creating considerable parallels between this study and action research methods. Despite the limited source of data, this study offers a substantive theory of journalism as practice because the data sources used are the most reliable insights into organisational conceptions of journalism – the focus of this study. If interviews and ethnographic methods had been employed, the study would have been distorted from its original aims to focus on organisational conceptions of journalism rather than individual views on this subject.
2.6 Advantages of grounded theory

In this study, I undertake a qualitative evaluation of the ability of the current system of journalism self-regulation to give effect to ethical journalism. I identify weaknesses in the current conceptualisation of self-regulation that stem from the manner in which journalism is imagined. I use textual analysis of codes to identify deficiencies in the way philosophical understandings of identity and ethics have been applied to journalism. By highlighting the gaps in the conceptual paradigm that frames the current theories of journalism and journalism ethics, I offer insights into key problems facing industry self-regulation.

Given its grounding in substantive data analysis, the theory developed in this study is able to offer significant insights into ways of improving journalistic self-regulation to encourage ethical journalism. The significance of this study is not in the data evaluated, but in the concepts by which the data are evaluated – in other words, the methodology. By categorising the self-regulatory codes according to ideology, I aim to explain how core journalistic values can be marginalised. Thus, this study aims to reveal problems with the way in which journalism self-regulation has been conceptualised and operationalised. In this way, it uses the tools of meta-ethics and normative ethics to analyse an ethical problem. Thus the grounded theory emerging from this study falls into the conceptual category of applied ethics.

But there are problems with grounded theory. Its success is often dependent on the researcher. Best results are achieved with a mature and experienced researcher, who has a better chance of identifying the implicit theories which guide the work at an early stage and know when to stop the comparative process (Silverman 1993, 47). The success of this study can only be evaluated by its content. But criticisms of grounded theory are negated to a certain degree if the substantive theory developed is not abstracted beyond its stated aims. I have already noted that any attempt to abstract the substantive theory of journalism as practice to a formal theory requires further data analysis. Interviews and observations are needed to take account of the personal ideologies and conceptions of journalism and ethics. However, the grounded theory presented in this study offers a theoretical framework for evaluating the ability of the current system of self-
regulation to give effect to ethical journalism and in this sense, the theory of journalism as practice offers a complete theoretical framework that describes what journalism is, how it is done and what it should be. Therefore it expands the current theoretical paradigm to provide a framework by which to model an alternative system of journalistic self-regulation. This study is part of an ongoing theoretical discussion that extends well beyond this thesis.
Chapter 3

Liberalism & Communitarianism: A framework for mapping journalistic values

3.1 Introduction

This chapter builds on the analysis started in Chapter 1, which identifies the key properties of journalism codes that need to be explored in order to evaluate their ability to give effect to ethical journalism. As mentioned earlier, these properties include service ideal, rules and the processes by which rules are reinforced. I now review a range of philosophical writings to develop theoretical criteria by which to categorise the codes and the various conceptions of journalism canvassed in this study. In the previous chapter, I have noted the importance of philosophical writings in grounded theory approaches. It has a particular importance when analysing media performance, as it aids in describing and distinguishing major values that inform and influence the operation of media systems (Lambeth 1995, 4). In addition, it provides a conceptual framework for evaluating media performance (Lambeth 1995, 4). Given this, philosophy can also aid in the critical evaluation of journalistic self-regulation. Questioning the system of self-regulation’s ability to encourage ethical journalism involves an examination of what is an ethical journalist. This means considering what is basic to the explanation of ethics in the journalistic context: the individual or community (Lehrer, 2001, 110)? I see the starting point of any attempts to reform the self-regulatory environment to be the ideological foci of the codified values reflected in the codes on which the self-regulatory system is based.

This chapter outlines the two major theoretical paradigms – liberalism and the communitarian critique of liberalism – in an attempt to identify the ideological focus/foci of journalistic values. While Gaus (1983, 273) believes that the formal ethics of modern liberals relate back to the “core theory of man”, Moseley (2002, 1) claims the “core theory of man” emerges from theories of ethics. I am not concerned with which comes first, but suggest (like Gaus and Moseley) that
theories of ethical journalism are integrally linked to the conception of journalism which is, in turn, framed by our conception of an individual’s relationship with society. This chapter provides a general outline of liberal theory and the critiques of liberalism. It examines various categorisations of liberal theory and recent critiques to develop a set of theoretical properties by with to present continua that represent the theoretical priorities of the liberal and communitarian paradigms. These continua will be used (in later chapters) to identify the ideological foci of various theories of journalism and the sample of journalism codes discussed here. This analysis builds on the media typologies developed by Siebert, Peterson and Schramm (1956), Lambeth (1995), Merrill (1974) and Altschull (1984), translating them into theoretical continua.

The linear representation of these theories is not accepted as the ideal. In fact, Hayek (1960, 396) rejects linear conceptualising of conservatism, liberalism and socialism, arguing they are more like the “corners of a triangle” (Merquior 1991, 129). I accept this view but for the purposes of this thesis, the linear conception of these ideals is more useful, providing a theoretical line of thinking, ranging from the negative freedoms of minimal state – where a competitive free market delivers individual freedom (neo-liberalism) – to more social liberal views supporting an interventionist state that provides the conditions by which individuals can exercise equal freedom (modern liberalism) and the socially-oriented theories of communitarians where participation is viewed multi-dimensionally. I am aware that there are communitarian interpretations that suggest a more authoritarian model – however, I argue these approaches have not been highly influential in western societies such as Australia.

Given the range of explanations within liberalism, theories of human relationship and society cannot be easily categorised. Developing a body of theory that explains this relationship is an evolutionary process, where theories are postulated, critiqued and refocussed to take account of changing conditions. In many respects, liberalism and the critiques of liberalism can be conceptualised as

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5 The media typology is set out on page 109.
building blocks. *Classical liberalism* is the foundation supporting different theoretical towers. However, this conception of liberalism has its limitations. First it does not fully represent the theoretical diversity within the different aspects of liberal theory and its critiques. Secondly, it fails to acknowledge the interconnections between the critiques of liberalism and those explanations’ differing starting points. In this sense, liberalism is a broad family of theories, which has developed over time. Critiques have emerged from different priorities within this array, resulting in interconnected relationships, more like a family tree than a building.

While acknowledging the limitations of a linear approach, I have opted to use it here because I am identifying the key properties of the various conceptions of liberalism and communitarianism. I am not seeking to map a complete history of the development of liberal thought and the conservative and modern critiques of liberalism. The continua I develop do not represent a timeline or historical map of liberal thought. Instead they depict the key ideals and priority of values that underpin these different “families” of liberal and post-liberal thought. I use these simplistic continua to categorise the priority of values underpinning the major “families” within liberalism (where the individual is sovereign) and the *communitarian* critique of liberalism (where the community takes priority). By categorising these descriptions of the relationship between individuals and society, I aim to develop the key conceptual properties by which to categorise and analyse data derived from the sample of journalism code selected for analysis. These continua provide the theoretical framework by which to evaluate the ideologies espoused in the representative sample of Australian journalism codes and the ideological foci of current theories of journalism: the first step towards articulating my alternative theory of journalism. Before setting on this path, it is important to explain why the theoretical dimension is important when examining self-regulation of journalism.

### 3.2 The purpose of theory

A theory simply is a way of arranging perceptions and filtering information to help evaluate whether something is good or bad (Johnston 1994, 5). Theories help us to understand and critique performance, so when arguing for reform of
journalistic self-regulation, it is important to evaluate the need for reform from a theoretical and practical perspective. I am interested here in postulating a praxis-based theory of journalism and journalism ethics in order to evaluate the suitability of the journalism codes to give effect to ethical journalism. Lambeth (1995, 3-16) highlights the importance of theories of an individual’s relationship with society when analysing media performance:

First, philosophy helps us describe and distinguish major values that inform and influence the operation of national and regional media systems. Second, knowing the philosophical orientations within news media systems can help us understand the way those systems define their attitudes toward and stake in the emerging global communication networks. Third, philosophy can provide a conceptual framework for critical evaluating news media performance, whatever the nature of the political system in which a nation’s media operate. Finally, philosophy can give us a means to compare news media systems (Lambeth 1995, 4).

Hackett and Zhao (1996, 44) question the ability of journalism ethics, as conventionally defined, to bring about reform and I take up the issue at the heart of their scepticism: the industry’s conception of journalism and journalism ethics. One aspect of this problem is the operationalising of journalistic ideals within the codes, which is my focus. But before identifying the ideology and values underpinning the codes and the suitability of the processes and procedures used to implement them, it is important to identify the origin and meaning of ethical concepts within journalism. This involves a discussion of what journalism is, how it is done and what it should be. Journalism (regardless of how it is described) is part of wider society – as social organisations have changed over time, so has the role or roles of journalism. Given Australia’s democratic origins, its journalism has emerged in a liberal context. Liberalism has been highly influential on how journalists view themselves and their regulation. Any reading of codes, which outline journalistic standards, reveals liberal ideals. The MEAA (AJA) Code of Ethics, the Australian Press Council Principles and other journalistic standards are couched in terms of rights, duties, equality but most importantly, freedom. But they also refer to concepts such as community and public interest as well as “values” like honesty, accuracy, respect and independence. Do the ideologies espoused by the codes take account of the revised theories of human nature? To answer this question, I want to now look at liberal theory and recent criticisms.
3.3 Liberalism: A family of theories

When categorising the key approaches to liberal thinking, it is impossible to canvass all the literature as the development of liberalism spans at least three centuries. As Gray (1995, xi, xii) notes, it can only really be understood in “the historical perspective given by the several crises of modernity”, including the dissolution of Feudal power in Europe, the French and American revolutions, the emergence of democratic and socialist mass movements and the threat from totalitarian governments. Not only does the development of liberal thought span an extensive period, it covers a diverse range of contexts. Liberalism is a “comprehensive philosophy including theories of ethics, value, the person and knowledge” which seeks to explain human nature (Gaus 1996, 4). Therefore, to categorise the various categories of liberalism and the communitarian critique of these approaches is a difficult task. Contemporary commentators (Gray 1995; Gaus 1996; Merquior, Conway 1995) have aided this process. Gray notes (1995, xi) that liberalism has “no single, unchanging nature or essence”. It does have a “set of distinctive features which exhibits its modernity and at the same time marks it off from other modern intellectual traditions”. He describes (Gray 1995, xii) liberalism as a “tradition” which offers a conception of the individual and society that is:

- individualistic in both a moral and political sense. Politically the individual is political sovereign and moral agent;
- egalitarian, all individuals have equal moral status. Each individual has equal political and moral value and rights take priority over good;
- universalist, where the moral unity of humans takes priority over social and cultural traditions; and
- meliorist, in that all social institutions and political arrangements are capable of being corrected and improved.  

6 The different families of liberalism place different emphasis (or priority) on these values.
Berkowitz (1999, 5) explains liberalism, as a political doctrine, is premised on natural freedom of individuals and equality of all. Although liberal political theorists articulate the justification for freedom and equality in different ways, Berkowitz identifies a set of characteristic themes arising from the liberal tradition within politics. These include individual rights, consent, toleration, liberty of thought and discussion, self-interest rightly understood, the separation of the private from the public, personal autonomy or primacy of individual choice, a set of political institutions including representative democracy, separation of governmental powers and independence of the judiciary (italics are mine). For individuals and society to display these characteristics, there must be substantial freedom of speech. Therefore in liberal societies, freedom of speech is integral to individuality, pursuit of truth for the purposes of self-development, intellectual liberty, and participation in the political process. The foundation of liberal theory is extremely diverse, but at the heart of liberalism are the concepts of liberty, equality and fraternity. The diversity within liberalism emerges because of the different hierarchy of importance identified by theorists when describing what matters most in an individual’s relationship with society. This has resulted in a family of liberal theories, related by a set of ideals. The theoretical lineage of liberalism is determined by the emphasis placed on different aspects of these values. I need to categorise these philosophical approaches in order to evaluate the ideologies which frame conceptions of journalism and journalism ethics. To do this, I look at how contemporary commentators have categorised liberalism. One commentator, who has influenced the way in which I have categorised liberalism is Merquior (1991). He classifies liberalism into six main categories: protoliberalism, classical liberalism, conservative liberalism, new liberalism, neo-liberalism and sociological liberalism.

Protoliberalism is “an ideological cluster of values and institutions that historically cleared the way” for classic liberal theory and liberal polity (Merquior 1991, 37). Merquior (1991, 15-36) traces the influences on the development of liberalism back to the philosophers of the middle ages, who articulated views in rights and constitutionalism. Liberalism also carries the legacy of the Renaissance (the ideology of humanism and citizenship); the Enlightenment (secular and
progressive understanding of history) and Romanticism (individuality) (Merquior 1991, 15-36; Jaguaribe 1996, 35).

Merquior’s second category is classic liberalism (1991, 37-67), which he describes as a conceptually diverse range of theories based on natural rights, civic republicanism, political economy, historical sociology, utilitarianism and sovereign legitimacy. It is a theory about human relationship with society founded on individual liberty, where the onus for justifying any limitation of liberty is on those seeking to limit it (Gray 1995, xi; Gaus 1996, 1; Merquior 1991, 2). Institutional power of the state is limited by separating powers into spheres of competence, “classically associated with the legislative, executive and judicial branches” (Merquior, 1991, 3). Voluntary civil institutions also provide a balance to state power. Classical liberalism has shaped the modern political system, which is divided, limited and installed by popular consent (Merquior 1991, 37; Jaguaribe 1996, 35). It is characterised by notions of individualism in a political, social and moral sense, a negative conception of liberty, economic liberty arising from free competition and democracy where people eligible to vote elect the sovereign whose power is derived from the consent of the majority. State limitations on individual liberty must be justified, making justification and legitimacy the focus of political philosophy in classic liberal theory. Key influences in the development of classic liberalism are Locke (social contract theory), Mill and Bentham (utilitarianism). Classic liberalism covers a broad range of theories, which will be examined in more detail later.

Conservative liberalism (Merquior 1991, 68-98) is an elitist form of liberalism that sought to “slow democratisation of liberal politics”. Conservative liberals uphold the concepts of individual liberty but support conservative views on labour and the rights to political participation. They reveal conservative inclinations towards census democracy where property determines a citizen’s political value (Merquior 1991, 97). New liberalism (Merquior 1991, 99-126) is a shift from a negative conception of freedom where individuals are free from state control to a positive conception of freedom where the state guarantees the rights by which individuals can exercise their rights. It is “characterised as liberal thought impregnated with social concerns”. The focus of the theory is on equality to ensure equality of opportunity and an ethical community. It moves beyond classic
liberalism’s notion of liberty and minimum state to an interventionist state that removes obstacles through enlightened reforms enabling individuals to enjoy higher freedoms (Merquior 1991, 101). Key exponents of new liberalism include Green (1836-82) and Hobhouse (1864-1929).

Neo-liberalism (Merquior 126-131) developed as a critique of the paternalistic theories of new liberalism. It is similar to conservative liberalism in that economic freedom and a free market are essential for progress and freedom. Friedrich August von Hayek (1960), a key exponent of neo-liberalism, sees the market as “unrivalled system of information” and “state intervention is bad because it makes the information network of the price system emit misleading signals…reducing the scope of economic experimentation” (Merquior 1991, 127). He sees progress as imitating successful economic institutions, thus further empowering private corporations, which are seen as the best allocation and management of resources. Jaquaribe (1996, 32) is critical of neo-liberalism because it demonises the interventionist state that provided stability in which these institutions could develop. The wisdom developed within these institutions evolved from an interventionist state environment. When such intervention is removed, imitating corporations that prospered under welfare states could lead to massive social and economic problems. Sociological liberalism (Merquior 1991, 131-138) is another category of liberalism. Merquior identifies the key exponents of sociological liberalism as Raymond Aron (1905-1983) and Ralf Dahrendorf. They saw the “new social conflict in contemporary advanced societies between provisions and entitlements” because “social legislation and union agreements confer entitlements independently of the specific provisions that exist and thus frequently foment conflicts based on disparities between acquired rights and the material means of satisfying” (Jaquaribe 1996, 33). This conflict is often articulated by journalists, who rely on fundamental human rights to freedom of speech but face increasing difficulty in acquiring that freedom. While Merquior sees sociological liberalism as a separate category of modern/new liberalism, it is a theory founded on a positive conception of freedom and therefore will be treated as a form of modern liberalism.

While offering a clear set of conceptual categories in relation to the theories that describe the relationship between individuals and society, Merquior’s
categorisations are too complex for the purposes of this study. The distinctions between the various categories are not sufficiently clear to help distil the ideologies underpinning journalism codes and self-regulatory organisations. In short, there is too much theoretical blurring between Merquior’s categories to offer a conceptual framework for this analysis. Instead of using the six categories identified by Merquior, I focus on classical liberalism, neo-liberalism and the communitarian and modern critiques of liberalism. This formula relies in part on the Merquior characterisations of liberalism but also takes account of Conway’s (1995) classification of liberalism that derives from the modern liberal and communitarian critiques. After characterising classic liberalism, I will outline the general criticism and responses to this and then present a theoretical continuum, identifying the characteristics that distinguish classical liberalism and its various critiques. In a second continuum, I will attempt to plot the “idealised” role of journalism within the social framework postulated by neo-liberal, classical liberal, modern liberal and communitarian conceptions of society.

3.4 Classic liberalism

Liberty as a natural right is the focus of classical liberal theory (Conway 1995, 8). In this sense, individuals should be free from constraints to pursue their own interests provided that they do not violate the laws of justice (Smith 1979, 687-688). Such negative freedom should be protected by the rule of law which prevents members engaging in acts which either restrict the liberty of other members of society or otherwise harms them (Conway 1995, 9). Classical liberalism is characterised by individual freedom and equality before the law, usually in the form of negative rights of freedom from state-imposed constraints. Within this framework, liberty implies property (Conway 1995, 10-13). The classic liberal theory of property is founded on the notion that the person who obtains exclusive control over previously unowned property derives ownership of that property (Conway 1995, 10). This, in turn, requires society to recognise enforceable legal rights to bequeathable private property.

The economic argument for liberty articulates the liberal position towards association, division of labour and productivity. Individuals must be free to enter into and exit from the voluntary associations within civil society (Conway 1995,
Conway (1995, 13-15) outlines the three different categories of association as including the family, extra-familial associations within the civil domain, and the state which is formed by majority consent. Civil society is the “sum” of the extra-familial associations formed because of the material benefits derived by individual members (Conway 1995, 15). In turn, these associations increase productivity by enhancing specialisation. Productivity also increases with the amount of money paid to labour as individuals will give up leisure to be more productive if they have a secure income. The non-economic case for liberty recognises that individuals need more than material goods to be happy (Conway 1995, 17-20). Conway (1995, 19) suggests this should be based on individual tolerance of all forms of expression and activity which do not harm others, claiming such “tolerance is a condition of everyone’s being able to obtain those spiritual goods which are most important to them”.

Classical liberalism covers a wide range of theories. The focus is on individualism, minimum state elected by majority consent, equal opportunity before the law and capitalist economics and includes contractarian (Locke) and utilitarian philosophies (Mill), as well as rational thought (Kant). In order to trace the key conceptual underpinnings of classical liberalism, I will consider these theorists’ contribution to this body of knowledge. The work of Locke, Mill and Kant are thematic aspects of my consideration of liberal theory.

Social contract theory emerged from theories of natural law, which supports the hypothesis that there are certain moral necessities or principles of just conduct which flow directly from an independently identifiable human good (Gray 1991, 46). The moral rights derived from nature have priority over any social institution or contractual arrangement, therefore natural rights take priority over good (Gray 1991, 46). Hobbes is seen as a founder of natural rights theory, where humans create the state. He views the state as “an organism analogous to a large person” (Fieser & Dowden 2001, 3), seeing humans as ostensibly equal, but the selfish nature of humans instils fear. His approach sought to identify a way of peaceful co-existence, identifying specific laws of nature to preserve life including seeking peace and surrendering rights in order to achieve peace, individual pursuit of self-interest and equality of people (Fieser & Dowden 2001, 4, 5). Hobbes’s pessimistic view of human nature meant that people could not be trusted to
“contract” to live peacefully and respect the natural rights of others. He believed that to achieve peace, individuals had to surrender rights to self-govern to one individual or assembly. The “contract” between individuals and the absolute sovereign became the only real and enforceable contract, which could ensure peace. The right of the sovereign (individual or collective) was unlimited “because the right transmitted by everyone is unlimited” (Manent 1994, 25). On forfeiting the individual right to govern, individuals owe loyalty to their sovereign and are obliged to consent to the majority in declaring a sovereign, but the sovereign has responsibilities towards “subjects” including an obligation not to be unjust or to injure (Fieser & Dowden 2001, 6). Hobbes identifies three ways in which governments can be instituted: through monarchy, aristocracy and democracy (Fieser & Dowden 2001, 6). Hobbesian theory justifies the authoritarian state, but it plants the seeds for liberal contractarian arguments espoused by Locke.

Locke (1632-1704) developed the social contract arguments but rejected the legitimacy of monarchical sovereignty. He recognised that individual rights derived naturally, but individual rights could be overridden by a properly instituted state (the rule of law). Personal liberty depended on private property (Sturgis 1994, 5). Fieser and Dowden (2001, 12) explain that Locke saw labour as the origin of, and justification for, property which needed protection under the rule of law. Therefore, political theory became linked with economic theories and the division of labour. Locke ignored the pessimistic impressions of human life articulated by Hobbes, viewing humanity as essentially good and capable of peaceful co-existence in liberty (Sturgis 1994, 4). He saw consent as the grounds of government, where government is instituted by a social contract which limits government powers, specifies reciprocal obligations, and can be modified or rescinded by the authority conferred on it by the people (Fieser & Dowden 2001, 12).

A recent exponent of social contract theory is John Nozick, who asserts that the idea of minimal state provides the “framework for a meta-utopia in which individuals might join together to form communities of free entry and exit, competing for members”. He continues (Sturgis 1994, 24):
Within these smaller associations, members might choose to contract away certain rights in favour of receiving particular services; the communities which would emerge might not be ideally liberal (but) with the option of exit ever-present, each association must remain true to its contract and accountable to its members (Sturgis 1994, 24).

This interpretation of liberalism acknowledges the important role of voluntary associations in supporting and delineating liberty, particularly the market. Nozick, seen as an exponent of neo-liberalism, sees liberty being determined by the ability of individuals to leave these institutions (the market) whereas the focus of modern liberal theorists is on entry and exit from these associations: that is, the equality of individuals to exercise freedom. Nozick’s theories will be discussed in more detail under neo-liberalism. While relying on the notion of social contract, the theories of Locke and Nozick reflect two categories of liberal thinking: classic liberal and neo-liberal. Locke’s theories focus on the idea of a social compact between the public and the state which is a fairly simplistic and idealised explanation of modern democracy. Nozick, on the other hand, stresses the importance of a free market in the formation of civil institutions, thus economic factors take greater priority. Within these frameworks, there are obvious differences in the priorities of values. By explaining he key characteristics of classic liberalism, neo-liberalism, modern liberalism and communitarianism, I can develop a conceptual map by which to position the ideologies underpinning various conceptions of journalism and the codes’ priority of values. But the classification of values within classic liberal theory is difficult because it covers a range of explanations of the relationship between individuals and society. Kant’s categorical imperative provides another interpretation of social contract theory based on rational thought. It is important to discuss Kant’s contribution to liberal thinking because of categorical imperative’s influence on ethics and the major exponent of deontological approaches to ethics. Kant (1724-1804) sees humanity as an end in itself. Fieser and Dowden (2001, 1) summarise his categorical imperative as follows:

- the function of the human will is to select one course of action from among several possible courses of action;

- specific wilful decisions are influenced by several factors;
• in moral matters the will is influenced only by rational considerations;
• morality involves what is necessary for us to do and only rational considerations can produce necessity;
• rational considerations that influence us must be a single principle of obligation which command us to do perform a particular action;
• the principle cannot appeal to consequences; and
• the only principle that fulfils these requirements is the categorical imperative, which dictates the universalisability of our actions.

According to Kantian contractualism, “society, being composed of a plurality of persons, each with his own aims, interests and conceptions of good, is best arranged when it is governed by principles that do not themselves presuppose any particular conception of good” (Gaus 1996, 5). This is achieved by “conferring maximum equal freedom on human beings” (Gray 1991, 50). Gray sees this as Kant’s greatest contribution to liberal thinking – that individuals view themselves as autonomous rational agents and authors of their own values. Kantian (deontological or principle driven) views on ethics have been highly influential in the works of J.C. Merrill (1974, 1990, 1995); a critic of professionalisation of journalism. Kant’s contribution to liberal thinking is significant in this study because of his deontological approach to ethics and the importance of rational thought.

Libertarianism and democracy are legacies of classic liberal theory (Merquior 1991, 37). Mill (1861, 1863) is seen as the “libertarian saint” (Merquior 1991, 59). His work On Liberty (1859) is crucial to my thesis because of its focus on the role of freedom of speech in liberal theory. Merquior (1991, 61) describes On Liberty as a “manifesto for individualism” which claims individuals should have “absolute freedom of opinion and sentiment on all subjects” and the “liberty of expressing and publishing opinions” because expression and publication are “practically indispensable” from thinking (Day 2000, 1). Mill claimed unimpeded individuality and a comprehensive sphere of privacy were essential to cultivation of personality (Merquior 1991, 61). The only justification for limiting individual liberty, including freedom of speech without consent, is to prevent harm to others.
Merquior (1991, 62) sees Mill’s utilitarian theory of individuality as interweaving various strands of liberal thought: political liberty, negative freedom, freedom as entitlement, freedom of opinion, freedom as self-rule, freedom as privacy and independence. Mill’s utilitarian approach is a movement towards welfare-oriented liberalism. While Mill stresses freedom as a lack of coercion and minimum state, *modern liberals* like Rawls (1999) have taken utilitarian philosophies to justify an interventionist state that guarantees equality. The utilitarian views of Mills have been highly influential in the development of a theory of social responsibility that recognises that freedom of speech and press freedom can be justifiably limited on the grounds of the greater public interest. These views will be considered in more detail later but for the present evaluation, it is important to identify that utilitarian ethics (a form of teleological ethics) are a product of *classic liberalism*. However, Mills’ utilitarian ethics found the development of more paternalistic *modern liberal* views on the individual’s relationship with society.

In summary, *classic liberal* theory supports a negative conception of freedom, where liberty is the prior right. It supports a system of constitutionalised limitation on sovereign power where the state must justify any limitation of individual liberty. Narveson (1997, 16) defines *classic liberalism* as having two components where the sole justification for government is the common good of the ruled and good is interpreted and ultimately assessed by *individuals*. Merquior (1991, 15), on the other hand, sees *classic liberal* theory consisting of three elements. First he sees it characterised by a theory of human rights, where people have basic rights, which they can consent to surrender to the state. Freedom of speech is essential to relaying the conditions on which individuals’ consent to surrender individual liberty. The second characteristic is Constitutional government where the Constitution delimits state power and there is minimum government for the people. Freedom of speech is essential to understanding the justification for state limitation of power and relaying the terms on which individuals consent to majority rule (Merquior’s 1991, 15). Merquior’s (1991, 15) third characteristic of *classical liberalism* is classical economics, where free trade and individual property rights dominate. This conception of free trade includes individuals using knowledge for their own purposes. Knowledge is dependent on information and freedom of speech while the marketplace determines the value of information.
Classic liberal theory places considerable importance on free speech because it is essential to individual liberty. Freedom of speech is essential to provide information about why a government needs to limit individual freedom. For example, the justification for intellectual property rights is to protect the creative endeavours and invention.

Freedom of speech is essential to convey to the government individual responses to intrusions on personal liberty. This is important to identify whether a majority consent to such intrusions or to the government. Freedom of speech therefore is essential to determine the legitimacy of government limitations on individual autonomy: the terms of consent and collective self-rule. But freedom of speech has more fundamental roles to play in enabling humans to pursue ideas, wealth and universal self-interest. The relationship between rights and the ranking of speech in the hierarchy of what matters most in liberal theory is troublesome as it is a relationship of dependence. Free speech is not only an end in itself; it is a means to an end that is held important in liberal theory. Freedom of speech is needed to participate in democracy. Free speech is essential in pursuing the truth and truth is important because of its contribution to self-development, individuality and the greatest happiness (O’Rourke 2001, 163). The prominence of property and economics in theorising individual liberty sees economic considerations as the means by which individuals derive their freedom of speech. But to pursue wealth, individuals must have information to make choices. Therefore, economic freedom is dependent on freedom of speech, suggesting speech precedes economic freedom. In classical and neo-liberal theories, the market is seen as the only acceptable censor of information, making it the agent by which information derives value. Critiques of these forms of liberalism reject the market as the sole valorising agent.

In classic liberal theory, freedom of speech is integrally linked to political, religious and economic rights, with each individual equally placed regarding access to these. As society has become more complex, individuals and the state rely on the mass media to gather and disseminate information. In classic liberal terms, the mass media and the press are viewed as economic institutions whereas journalists are perceived as autonomous individuals that are supported by the economic institution. Classic liberal theorists distinguish between the business of journalism and the actions of journalists. Journalism as an institution (supporting a
range of autonomous individuals) is formed with the consent of the public and the state. The mass media and journalism accept the economic, social and political benefits of this dependence and in return agree to provide information to the public and the state in a way that gives effect to universal self-interest of individual liberty and minimum government. The market ensures responsibility, thus making it unnecessary to implement professional codes. In fact, *classic liberal* views of journalism are anti-professionalisation. However, the ethics of individuals – whether deontological or utilitarian – ensure a degree of social responsibility. In the *classic liberal* context the individual journalist should be free to decide what is ethical, from a perspective that is either principle or consequence driven. There should be no institutional interference in this freedom – state or professional.

The forfeiture of rights to the mass media is bilateral: the state and the public agree to the mass media relaying information about the justification for state limitation of individual freedom and the public agree to the mass media relaying information about their consent to this limitation. The mass media (which includes journalism) is the means by which people publish ideas. The mass media derive freedom from the collective public whose opinions they publish (i.e. the public contract with the media to exercise their right to freedom of speech). The mass media and journalism (in particular) are viewed as institutions or associations within society. Therefore, the individual organisations that make up “the mass media” have their own freedom as economic and civil “institutions” and as such should not be controlled by state or professionally driven regulatory systems: the free market should ensure diversity of views and responsible conduct.

The concept of freedom of speech in *classical liberal* society goes further than just political information because people require information to make decisions at a political and civil level where associations are formed. Information is essential to progress, because individuals need information to form opinions about the formation and maintenance of voluntary associations such as businesses, unions and community groups. Therefore, the arguments for freedom of speech in *classic liberal* society are pursuit of truth for self-development (progress) and participation in government (which, in liberal societies, is democracy). *Classic liberalism* supports the notion of a public right to know, where the individual
determines the value of information via the free market. Individual choice is reflected in the marketplace. The relationship between journalism, the public and the state can be conceptualised as a social compact between the media organisations and journalists, which institutionalises freedom of speech in journalists and the media corporations that support journalism. This is ensured through the freedom of individual journalists with the marketplace determining the value of information. Autonomous journalists and the economic organisations that support them provide information which facilitates individual self-development. This includes essential information on a range of societal processes:

- concerning the state’s justification of limitations on individual liberty;
- participation in government;
- pursuit of truth in public life; and
- pursuit of truth in private life to the extent that private life impacts on public decisions (i.e. formation of voluntary associations within society).

The marketplace determines the value of information and individual journalists determine the nature of ethical journalism. In classical liberal theory, there is a clear distinction between public speech (which should be free) and private speech (which should be controlled by the individual).

Journalistic philosopher John C. Merrill (1970, 1977, 1989, 1997) espouses a classic liberal interpretation of journalists roles in society when he describes journalism in terms of individual freedom of the journalist – the notion of professional responsibility is repugnant to him. He claims notions of professional responsibility undermine journalistic autonomy and the press’s legal right to freedom of speech. He believes freedom and individualism are the only way to ensure vibrant and diverse journalism. This conception of journalism and journalism ethics will be considered in more detail in the next chapter, but it is important to note here that Merrill sees journalism as an association of independent individuals. His theory of journalism is espousing a view of what journalism should be. It certainly does not reflect what journalism is in Australian society, where the marketplace in dominated a few media corporations that operate within a regulated market. In the Australian media context, there is little
market freedom, making it impossible to apply US journalism studies. The Australian profession is regulated by a range of codes that set standards, suggesting limited professional autonomy. In light of this, Merrill’s conception of journalism and journalism ethics does not fully explain what journalism is in Australia. Therefore, it is not sufficient to offer a theoretical framework for evaluating the Australian system of journalism self-regulation. Merrill’s theory may be more helpful in the United States and other countries, where there is greater diversity of ownership. However, in Australia his theory of journalism and journalism ethics does not provide the complete description needed for the purposes of this study.

Merrill relies on a classic liberal framework to explain the roles of journalism in society. But it has been argued that the predominance of liberal economic and political thought can limit the effectiveness of communication research to explain media operations by imposing a theoretical framework that includes a number of questionable assumptions (Hamilton 2003, 296; Williams 1976, 69; Hardt 1992, 77-122; Mosco & Kaye 2000). In exploring the theoretical explanation of media participation, Hamilton explains (2003, 296) this approach assumes the market system is a “neutral exchange between self-sufficient, self-interested and rational buyers and sellers”, resulting in a view of communication as a one-way flow of messages between producers and passive consumers. One effect of this conception of journalism has been to “shape the kinds of questions that are posed” about media participation (Hamilton 2003, 296).

The conceptual framework employed to explain a media problem can determine the types of questions asked. This is the problem with applying grand theory to explain a specific problem. I try to avoid these pitfalls by identifying how the ideologies that have underpinned conceptions of journalism and approaches to codifying values may have limited the types of questions asked by those seeking to reform journalism self-regulation to give effect to ethical journalism. Hamilton (2003) maps the legal, economic and cultural frameworks that have influenced conceptions of media participation, highlighting the limitations of liberal theory to explain the complex set of relationships between the media producers, media practices and consumers. He concludes:
Modernist modes of media participation emerged and helped constitute capitalist, modernist forms of media practice. This suggests, in turn, that critical or radical efforts to challenge dominant media practice should attempt to do more than increase diversity or turn consumers into producers. Rather, such efforts should be directed at challenging the entire conceptual and organisational infrastructure, including commercialisation, direct and immediate linkages to buying audiences, professionalisation, commitment to maximising audience size as an indication of success, authorship as personal ownership and rights of intellectual property (Hamilton 2003, 308).

This account, which links the history of journalism to the cultural development of society (globally), applies more generally to the reform of journalism ethics. The conception of journalism as the product of individuals whose notion of responsibility is determined by the free market, no longer reflects the reality of modern society. The transition to modernity has posed challenges and provoked institutional responses, at government, market, business and professional levels, which have contributed to the dynamic nature of journalism. Modern liberals argue that equality to exercise freedom of speech has now become as important as the right to freedom of speech (Rawls, 1985). Participation to exercise freedom of speech is viewed differently by modern liberals and communitarians. The question this raises is to what extent have industry codes engaged with the debate as to whether a journalist is an independent individualist or a member of a community?

Before engaging with this question, I need to recap on the discussion so far. Table 11, set out below, summarises the key characteristics of classic liberalism and attempts to identify the role of journalism in classic liberal societies. This summary highlights the birth of conceptions of journalism as the Fourth Estate and a “watchdog” on government as it becomes the vehicle by which individuals gather information about the justification for government limitations on rights and the legitimacy of civil and economic institutions. However, journalism within classical liberal societies performs a variety of roles: providing information essential to the formation and maintenance of civil associations; and providing information about the legitimacy of political and civil institutions – including the institutions which support journalism. But most importantly, journalism must be free in order to enhance individual freedom, derived through having the
information essential to make decisions that give effect to individual self-fulfilment.

Merrill (1996, 4) summarises the *classical liberal* view of journalism as standing for the following:

- maximum freedom,
- self-transformation,
- personal ethical codes,
- self-concern,
- self-enhancement,
- personal influence,
- autonomy/diversity,
- competition/meritocracy,
- “inter-directed”,
- diverse worldviews,
- total spectrum news,
- social information,
- universal competition,
- disagreement on ethics,
- relative-situation ethics,
- anti-media professionalisation.

I summarise the characteristics of *classical liberal* theory and a *classic liberal* media in the following table.
<table>
<thead>
<tr>
<th>Characteristics of classic liberalism</th>
<th>Journalism ideals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negative freedom</td>
<td>Participation in political process</td>
</tr>
<tr>
<td>Universal self-interest</td>
<td>Pursuit of truth as it is relevant to self-development</td>
</tr>
<tr>
<td>Morally neutral</td>
<td>Justification of political limitations of rights</td>
</tr>
<tr>
<td>Natural rights</td>
<td>Distinction between public and private rights</td>
</tr>
<tr>
<td>Equality before the law</td>
<td>Legitimacy of political &amp; civil institutions</td>
</tr>
<tr>
<td>Minimum government</td>
<td>Anti-professionalisation</td>
</tr>
<tr>
<td>Separation of public &amp; private lives</td>
<td>Individual codes of ethics</td>
</tr>
<tr>
<td>Free &amp; competitive market economy</td>
<td>Maintain free market</td>
</tr>
<tr>
<td>Property essential to freedom</td>
<td>Anti-media regulation</td>
</tr>
<tr>
<td>Progress = freedom to pursue ideas for individual self-development</td>
<td>Free speech essential to pursuit of ideas for individual self development</td>
</tr>
<tr>
<td>Various explanations including contractarian, utilitarianism, rational thought.</td>
<td>Approaches to ethics consequentialist and deontological but individually focused. Individual is ethical agent.</td>
</tr>
</tbody>
</table>

Hamilton’s (2003) analysis of media participation suggests the *classic liberal* and libertarian conceptions of journalism may have constrained media analysis. I believe this has occurred in the debate surrounding reform of journalistic self-regulation. Freedom of speech and resisting government regulation are the dominant industry responses to reform of self-regulation; while the government turns to specific ethical issues, such as invasions of privacy, to justify reform (The Parliament of the Commonwealth of Australia 2002). The arguments proffered against reforming journalistic self-regulation are grounded in *classic liberal* reasoning. Yet, as the ensuing discussion reveals, the industry’s self-regulatory scheme is essentially *modern liberal*: thus a potential conflict between ideology and reality emerges. For these reasons, I argue that the problem of journalism ethics needs to be analysed from a more conceptual level, where the codified standards are evaluated in light of institutional conceptions of journalism to see if self-regulation (in its current form) can encourage ethical practice. So what is *modern liberalism*?
3.5 Modern liberalism

The potential conflict between modern and classical liberal views is real because of the fundamental differences in the understanding of freedom. Modern liberal theory developed in response to perceived inequities arising from classical liberalism’s free market focus. Modern liberals criticise classic liberalism, claiming individual liberty must be protected by rights to freedom of speech and an equality of rights for all, which may require some form of state intervention to adjust rights to ensure all humans can exercise them. Individuals have fundamental human rights, but they also need the conditions by which to exercise those rights. Merquior (1991, 147) identifies the characteristics of modern liberalism as a stress on positive freedom, a concern with social justice, and a wish to replace laissez-faire economics. Modern liberals construe liberty in the positive sense of freedom to be free i.e. governments must provide individuals with the political, social, moral and economic conditions to exercise freedom. Moseley (2002) notes that modern liberals lean to a more “interventionist government”, focussing on providing a more humane society where all individuals are equal and have the ability to exercise that freedom. The crucial area of departure between classical and modern liberalism is in relation to equality. Classical liberals focus on equality before the law and therefore have equal right to life, liberty and to “acquire and enjoy secure possession of property” (Conway 1995, 26). Modern liberals regard equality in terms of freedom from constraint and freedom to exercise rights. Whereas classical liberals rely on rights, duties and a free market economy to explain the individual’s relationship with society, the modern liberals are concerned about whether individuals can exercise liberty – some see adjustments to the marketplace as the best way of correcting social imbalances. They take some account of the environment in which individuals exist and consider what level of state interference is needed to ensure equality of rights for all individuals and equality to exercise those rights.

Gaus warns (1996, 2) this positive conception of freedom can justify “paternalistic” state interference on the grounds that it is freedom enhancing, where “people can be forced to be free”. He (Gaus 1983, 7) reconciles the problem of negative and positive freedom by acknowledging a shift in liberal
thinking away from the over-individualistic focus of the classical theorists to take account of contemporary society. *Modern liberal* theories stress “mutual dependence over independence, co-operation over competition and mutual appreciation over private enjoyment” (Gaus 1983, 7). Gaus argues (1983, 164) the positive conception of freedom is an “effort to integrate into the very concept of liberty other things such as value and purpose (*negative liberty*) and the circumstances under which it can be effectively and beneficially exercised”. Gaus thus sees liberty as equality derived by the state providing the environment in which individuals can exercise freedom by ensuring equality of rights. Gray (1995, 59) reminds us that the basic liberties – speech and expression, association and movement, occupation and lifestyle – frame the necessary conditions of the self as an autonomous agent. The autonomous individual is someone who has the privileges needed to think and act autonomously – to rule through the self and not be ruled by another. According to Gray (1995, 59), *modern liberal* theory sees intellectual freedom as the cornerstone of autonomy and basic human rights as providing the context in which individuals derive such intellectual freedom. As he notes (1995, 59) “a free man is one who possesses the rights and privileges needed for him to think and act autonomously – to rule himself and not be ruled by others”. Gray argues (1995, 59) *modern liberal* theory “presupposes governmental provision of economic resources and governmental correction of the market process”. Therefore, it is possible to argue some level of state coercion to provide opportunity and resources is permissible to ensure freedom.

Reconciling the gulf between negative and positive conceptions of freedom is the greatest challenge for the liberal tradition. Liberty is essential to a good life but that is only possible where the conditions exist for individuals to exercise that freedom. Recognition of fundamental human rights such as freedom of speech, provide the environment in which people can exercise their freedom. There are two important aspects to providing the conditions by which a person can be free: the nature of the civil liberties and the equality of civil liberties. Kukuyama (1992, 42-43) identifies these fundamental rights and freedoms as including:

- civil rights, “the exemption from control of the citizen in respect of his person or property”;

87
- religious rights, the “exemption from control in the expression of religious opinion and the practice of worship; and
- political rights, which are an “exemption from control in matters which do not so plainly affect the welfare of the whole community as to render control necessary”, including the fundamental right to press freedom.

All liberal theories maintain that individuals have equal rights before the law. The individual has agency to determine his/her moral duty in light of the competing rights and a set of universally applicable ethical principles. In the classic liberal sense, upholding of rights takes preference over good. However, more recent theorists have introduced notions of fairness and justice as guiding principles for individuals interpreting their moral rights and obligations (Rawls 1972). The factor, which distinguishes classical liberal theorists from modern liberals, is the level of state intervention tolerated by individuals. The classic liberals see minimum state intervention as the focus of the theory whereas modern liberals see the state as playing a welfare role. This has resulted in liberals tolerating some state interference to ensure minimum economic conditions and basic human rights to ensure all individuals can exercise their freedom. Rawls’ landmark book A Theory of Justice (1972) identifies the “principal task of government is to secure and distribute fairly the liberties and economic resources individuals need to lead freely chosen lives” (Bell 2001, 1). Conway (1995, 27) explains that Rawls’s theory of justice comprises two principles: the first relates to political institutions and the second specifies the conditions to be met by society’s chief economic institutions. The first principle of justice (political) requires that each person has an equal right to basic liberties. The second principle requires social and economic institutions to provide equality of opportunity and the greatest benefit to the least advantaged members of society (Rawls 1985, 227; Conway 1995, 28).

Liberals view freedom of speech as a fundamental human right, essential to individuals being effective moral and political agents. All individuals have equal rights to freedom of speech. Classic liberals believe no one has a greater right to freedom than any others and the state should not constrain speech in any way, unless it is to protect people from harm. The role of government in ensuring freedom of speech again becomes a focal point in theorising this freedom. Classic
Liberals (Merrill 1990, 1992, 1997) insist that the market place of ideas is the only acceptable form of censorship. The government must take a hands-off approach to speech, and individuals must be free to decide what they should listen to or how they communicate. However, freedom of speech is not an absolute right: it must be balanced against other fundamental human rights such as the individual’s right to privacy, maintaining his/her reputation, the right not to be exposed to offensive or blasphemous publication, the right to protect creative ideas and others. The state should not introduce laws, which constrain speech or give other rights priority over freedom of speech (Merrill 1990, 1992, 1997).

Modern liberals see the state playing a role in ensuring equality of speech freedom, therefore guaranteeing majority views do not dominate minorities. This approach sees the state enacting legislation prohibiting vilification. Rawls’s theory of distributive justice identifies the role of government as introducing laws to ensure freedom of speech is fairly distributed and that minorities, as well as the majority, are able to exercise freedom of speech. But the focus of the freedom is on the individual’s right to freedom of speech and the individual institution’s right to freedom of speech and not the collective rights of the public to access a diversity of views. The relationship is between journalists and individuals collectively rather than with a community. Therefore the modern social environment is a collective of individuals who must live together and in order to do so, those individuals will accept some constraints on their rights to facilitate the rights of others. The focus of the theory is self-development but to achieve this aim, people must be tolerant of the views of others. Modern liberal theories acknowledge that individuals can be bound by common goals and values, therefore accepting professionalisation and the codification of values, provided those codes are overseen by professional rather than state bodies.

As noted already, property rights and market order are key conceptions of liberal theory because the free market protects basic civil liberties of the individual (Gray 1995, 61). Gaus (1983, 235) explains that private property and the free market are central to classic liberal theory for reasons of public interest and individual freedom. Private ownership of property and the pursuit of private interests promote the public interest by contributing to the overall wealth of society. A second dimension to classic liberal theory is that the free market is an institution,
which embodies and guarantees individual liberty (Gaus 1983, 235, 236). By contrast, modern liberal thinkers have questioned the claim that competition promotes public interest. According to Gaus, private property and free markets have a far less important role in modern liberal theory. The modern conception of humans as aiming at a coherent development of their natures sees property and the free market being conceptualised as development concerns, rather than issues which go to ideas of public interest and individual liberty (Gaus 1983, 239, 240).

The reconceptualising of the idea of “man” from a purely individualistic agent to a social agent has seen liberals, like Green, theorising the market as a co-operative process rather than a struggle among egoists (Gaus 1983, 243). Equality of freedom, rights and economic opportunity lies at the heart of liberal theory. It has already been noted that, according to classic liberal theory, equality of freedom, rights and economic opportunities could be achieved only through a neutral state, where the solitary individual has the freedom to deliberate on and choose what is good. However, modern liberals see the state playing a positive role in ensuring equality of rights and economic resources, thus justifying the position of laws guaranteeing fundamental human rights and regulating trade to ensure individuals are free and that they can exercise that freedom. Modern liberals accept that the state’s role is to provide the political and moral environment in which individuals can exercise individual choice. This means the press has no greater right to freedom of speech than the public or the state. This means the state should provide an environment that fosters co-operation to ensure individuals tolerate choice and develop intellectually as individuals.

This discussion reveals a clear distinction between classic and modern liberalism. Classic liberalism is a theory of the relationship between the individual and society where the individual has primacy over the community in both a political and moral sense and the state is neutral with regard to various conceptions of good. The individual must be free to decide what universal principles apply and how they should be followed. Modern liberalism has moved away from this negative (or non-coercive) role to a more positive conception of freedom where the principal role of government is to ensure individual liberties and the economic resources necessary for individuals to lead freely chosen lives (Bell 2001, 1). As Rawls notes in his theory of distributive justice, the principal role of government...
is to “secure and distribute fairly the liberties and economic resources individuals need to lead freely chosen lives” (Bell 2001, 1). *Welfare liberalism* adds another dimension to the idea of freedom of speech. People still require information to make informed decisions and to participate in the political process. Freedom of speech is still essential because of the importance of truth to self-development, but the equality of rights means people also must have access to information to aid cooperation and education to ensure intellectual liberty.

In this environment, journalism plays a vital role in facilitating debate on political matters but it also has a role in helping individuals pursue the truth as it is relevant to self-development in a co-operative society. Freedom of speech is an individual right and journalism is an economic, social and political institution, which trades on information, entertainment and advertising. According to Rawls’s theory of justice as fairness, journalism as a social institution must offer equal opportunities in terms of access, and the services it offers must be to the greatest benefit of the least advantaged members of society – a case for welfare journalism? Journalism moves from the morally neutral position of *classic liberalism* to having preferences to what is good for society. How those decisions are made is extremely important to my argument. Journalism in Australia has opted for a system of self-regulatory codes, a sample of which was discussed earlier. These issues will be considered again, but for the moment, it is important to point out that the role of journalism in a *modern liberal* society moves from the social compact between individuals members of society and individual journalists agreeing they should facilitate the public’s right to information to a more paternalistic relationship where journalism reinforces institutionalised goods, identified by the state and the industry as a civil institution. Therefore the focus of the relationship with individuals moves from justification of the actions of the institutions to the legitimacy of these institutions. Table 12 below identifies the key characteristics of *modern liberal* society and attempts to plot the role of journalism in *modern liberal* societies.
### Table 12: Characteristic of modern liberalism

<table>
<thead>
<tr>
<th>Characteristics of modern liberalism</th>
<th>Journalism in modern liberal society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individualistic with focus on equality</td>
<td>Information for political participation</td>
</tr>
<tr>
<td>Equality</td>
<td>Information for pursuit of truth for self-development</td>
</tr>
<tr>
<td>Liberty derived from equal rights</td>
<td>Tolerance</td>
</tr>
<tr>
<td>Tolerance</td>
<td>Cooperative market</td>
</tr>
<tr>
<td>Welfare-oriented</td>
<td>Justice</td>
</tr>
<tr>
<td>Progress = justice</td>
<td>Information essential to institutional legitimacy within society</td>
</tr>
<tr>
<td>Market controls to enhance competition and access to market</td>
<td>Education</td>
</tr>
<tr>
<td>A collective of individuals bound by common values and goals</td>
<td>Professionalisation of journalism: support for organisational codes</td>
</tr>
<tr>
<td>Contractarian &amp; Utilitarian explanations</td>
<td>Consequentialist (rule utilitarian) &amp; deontological approaches (institutional codes) to ethics. Institutionalised codes accepted.</td>
</tr>
</tbody>
</table>

#### 3.6 Neo-liberalism

A discussion of liberalism would not be complete without some mention of neo-liberalism. **Neo-liberalism** is a right wing interpretation of the relationship between the individual and the state that focuses on market freedom rather than state welfare planning. It has emerged as a response to welfare or modern liberal government policies that have regulated the market. McKenna (2001) describes the “guiding principles” of neo-liberalism in these terms:

> (I)n general, governments should do less rather than more and move away from the maintenance of full employment and state-based welfare systems by outsourcing or privatising service delivery and reforming their own activities along private sector line bases on competition and efficiency (McKenna 2001, 85).

The theories of Hayek (1960) and Nozick (1974) have been highly influential in refocussing the liberal tradition on the individual and minimum state intervention. **Neo-liberalism** sees the individual being the basic unit of society (Faulks 1993, 4). The sectional interests of institutions should not override the interests of the individual. Individuals should be free to enter and withdraw from institutions. **Neo-liberal** theories are anti professionalisation. Even codes of conduct would
unacceptably limit individual freedom. These characteristics are not significantly different to the classical liberal or libertarian perspectives. However, the area where neo-liberalism moves away from classic liberal theory is in the underlying justifications for freedom. Classic liberal theory emphasises human well-being (self-fulfilment and dignity) when justifying individual freedom: without individual self-fulfilment society breaks down. Neo-liberalism places its emphasis on material wealth, relying on the market to spontaneously set social order (Faulks 1993, 5). Similarly, the justification for minimum state intervention relies heavily on the ability of the market to give individuals what they need to enjoy social stability (Faulks 1993, 5).

Unlike the modern liberals, freedom in the neo-liberal sense is a lack of state coercion. The positive freedom of modern liberals, which interferes with the marketplace to ensure fairness, is seen as undermining individual freedom, which destabilises society. Hayek (in Faulks 1993, 2) rejects modern liberal claims that the market limits individual freedom. Faulks (1993, 2) summarises the argument in this way:

In order for someone to be coerced it must involve intention on the part of one or more human beings. Thus it cannot be said that one person’s liberty can be affected by the workings of the market for the market carries no moral priorities. It does not discriminate in a normative sense. It is up to individual citizens to succeed or fail according to their abilities to manipulate, to their own advantage, the laws of supply and demand.

Freedom…is not to be confused with equality in terms of material wealth or power…Freedom then is a negative concept which should be protected by the state through a system of law.

In this political and economic environment, civic culture becomes “consumer culture” and “what is virtuous or good” is determined by the apparent needs, desires and projected preferences of the sovereign consumer not by a more public or collective oriented ethic (McKenna 2001, 86). Table 13 below summarises the key priorities of neo-liberal descriptions of an individual’s relationship with society and plots the effect of this conception on the roles of journalists.
Table 13: Key priorities of neo-liberal descriptions of an individual's relationship with society

<table>
<thead>
<tr>
<th>Neo-liberalism</th>
<th>Journalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual freedom</td>
<td>Individual ethics</td>
</tr>
<tr>
<td>Market freedom</td>
<td>Lack of state regulation of media in terms of market and professional regulation</td>
</tr>
<tr>
<td>Market has no moral priorities</td>
<td>Individual ethics should determine right or wrong (market focus)</td>
</tr>
<tr>
<td>Negative freedom</td>
<td>Lack of state market controls (even professional codes are questionable)</td>
</tr>
<tr>
<td>Individual ethics where consumer is sovereign</td>
<td>Individual ethics focus on consumer not public interests, and industry needs dominate</td>
</tr>
<tr>
<td>Material wealth priority of value</td>
<td>Consumer-driven focus</td>
</tr>
<tr>
<td>Deontological ethical focus</td>
<td>Deontological approach to ethics</td>
</tr>
</tbody>
</table>

The market focus of *neo-liberalism* has been criticised by many theorists because the market does not reconcile the relationship between individuals and society.

### 3.7 The communitarian critique of liberalism

The *communitarian* critique of liberalism targets the liberal conception of society, claiming it fails to take account of social context for moral and political reasoning (Bell 2001, 1). Daly (1994, ix-xxvi) summarises this approach, arguing liberalism fails to take account of the social context in which individuals exist. Liberal theory is too morally neutral because it applies a set of universal moral principles for which there are no exceptions. It is too removed from the real context in which ethical decision-making is occurring. It is too rights-oriented at the expense of common good and too legally-oriented in its approach to ethics. Finally, Daly argues liberalism is too conflict-driven, therefore not encouraging participation.

Communitarians question the individual focus of liberalism, asking “whether circumstances still justify stressing the ideal of personal liberty or whether the problems facing our society are sufficiently different to justify forming a new philosophy stressing a different ideal, of “community” (Daly 1994, xix). Gaus claims (1987) these concepts can be accommodated within liberalism by interpreting individual rights and freedom from the social context in which
individuals exist. However, Frankel Paul et al (1996, 200) claim that liberal theory has conceptualised society from the wrong perspective by starting with the individual and asking “how we can design social institutions that allow these individuals …to define and redefine their needs, wants, interests and preferences?”. Instead, the social order should be the starting point by questioning how that social order shapes individuals of a particular cast. Beiner claims that the repositioning of the conception of the individual in modern liberalism does not negate the communitarian challenge to liberalism, because liberals have failed to rethink their conceptions of society beyond their existing framework. Frankel Paul et al claim the communitarian challenge to liberalism requires “another look at the fundamental issues concerning the adequacy of liberal society in satisfying the profound human needs of rootedness, common purpose and meaningful traditions” (1996, 203).

Just as liberalism has many families, the communitarian critique encompasses a wide variety of approaches (Craig 1996, 2). But all agree the theoretical focus of an individual’s relationship with society must start with the community and not the isolated individual. Thomas Spragens Jr (1995, 49, 50) summarises the focus of communitarian liberalism as:

- Importance of civil institutions such as local communities, families, neighbourhoods, churches and educational institutions to produce a creative environment for human development and happiness.
- Focus on design of social institutions and policies to promote civic friendship by identifying and understanding common purpose and common values.
- Individual rights essential to protecting citizens from majoritarian oppression.
- Maintenance of vital public sphere to encourage deliberative policy making.
- Political and social participation.

Modern liberals and communitarians view the individual as a social rather than solitary agent. Modern liberal theorists still regard the focus of a good society to
be empowering individuals to be effective agents. To be effective agents, however, the individual needs to take account of the community in which he/she exists (Johnston 1994, 190). Johnston notes that for individuals to be effective agents, they must participate in the public sphere, which is encouraged through effective processes.

Communitarians see the public sphere as comprising a number of fluid sub-communities, which are in a form of internal and external dialogue. These dialogues can be both dialogical and mediated, depending on the nature of participation. But increasingly, the mass media, and particularly journalism are seen as playing a mediating role in constructing the public sphere (Habermas 1989; Thompson 1995).

Communitarians see the community in which the individual exists as prescribing responses. If journalism is the voice of society, then, according to communitarian views, journalism would reinforce these responses as it reports on issues which transcend the various sub-communities that make up the public sphere. Therefore, journalists must be aware of the rights of individuals but also must make conscious decisions on what messages are essential to the public good. They must make moral choices about what is good. Journalism plays a role in creating and maintaining communities and reinforcing the common goods of those communities. Therefore, in a communitarian society, journalism plays a role in educating the public about the internal goods of other sub-communities, providing information to help members of these groups to make reflective decisions (providing a vital public sphere), and participating in civil and political aspects of society. However, the notion of participation is more than just access to the media. In contemporary society the mass media and journalism are part of this process as Hamilton (2003, 300) has noted, the ideological focus of a particular society can frame the types of questions asked about media participation. He believes liberal political and economic thought has focussed the debate on participation into a uni-dimensional framework. It has already been noted that journalism has a role in helping individuals understand their citizenry responsibilities at the public and private level, the question I am seeking to address here relates to how the conception of journalism in an ideological sense constructs the industry’s understanding of what is ethical.
Bell (2000, 7) notes the liberals’ reconceptualising of the solitary individual to the more public self has seen the gulf between liberals and *communitarians* diminish. He concludes (2000, 7):

What may be distinctive about communitarians is that they are more inclined to argue that individuals have a vital interest in leading decent communal lives, with the political implication that there may be a need to sustain and promote communal attachments crucial to our sense of well-being. This is not necessarily meant to challenge the liberal view that some of our attachments can be problematic and may need to be changed, thus the state needs to protect our powers to shape pursue and revise our own life-plans. But our interest in community may occasionally conflict with our other vital interest in leading freely chosen lives, and the communitarian view is that the latter does not automatically trump the former in cases of conflict. On the continuum between freedom and community, communitarians are more inclined to draw the line towards the latter.

The point, which needs to be made here, is that freedom, equality and conceptions of good and bad cannot be interpreted from purely individual or abstract perspectives. Contemporary political and moral theory suggests that the individual is a public and private creature. Just as individuals have public and private roles, so does journalism. For a theory of journalism to be an effective critical tool, it must take account of both the public and private roles. But more importantly, a theory of journalism must take account of journalism’s role in facilitating people’s understanding of the public and private aspects of society. Conceptions of journalism must also reconcile the public and private role of the institutions that support journalism: the media corporation and the business aspects of journalism. Thus, in conceptualising journalism, it may be helpful to view it as part of the public and private aspects of society, which involve communities in dialogue with each other, aided by journalism. As journalism intersects many communities across the public and private spheres, any procedures put in place to evaluate good and bad journalism must be flexible and should encourage public participation to take account of the customary values of the communities in which journalism is being performed.

This is not to suggest that journalistic customs and principles should be rejected for the customs of the communities in which journalism is performed. Rather, it is suggesting that when interpreting journalistic customs and principles to determine
what is good or bad journalism, it must be done in the context of the community in which journalism is being performed. This brings into question the suitability of universal codes of ethics and conduct that apply to all aspects of journalism such as the Media Entertainment Arts Alliance/Australian Journalism Association Code of Ethics.

Communitarians also criticise liberal theory for being overly universalistic in both a political and moral sense. Daly (1994, xvii) cites recent criticism of a morality of universal principles. She claims that universal ethical principles ignore community ties and work to undermine these obligations, thus weakening the institutions upon which communities are founded. They rely on intellectual over moral judgement and are intrinsically undemocratic because they presuppose a set of principles has higher moral standing than customs and practices. Finally, Daly claims a person’s character is developed within customary communities therefore universal principles are a “secondary morality” to customary morality. As Passerin d’Entreves notes (1992, 181), communitarianism is associated with criticism of utilitarian (consequentialist approaches to ethics) and Kantian ethics (deontological approaches to ethics). Communitarianism opts for a more virtue-oriented approach to ethics where communities and institutions are defined by common goods (Macintyre 1985).

It can be argued that the communitarian viewpoint closes communities, reducing their inter-communicating character. This results in members within a community treating people according to the ethical standards of that community, ignoring the customary values of those outside, and creating internal and external influences. This could result in an undemocratic society legitimising prejudice. Many communitarians acknowledge problems in looking to the past to determine modern values but they argue that traditions and ties provide a framework of values to help resist the corrupting influence of market institutions and liberalism’s overly-individualistic focus on traditional communities. This description of society highlights the important role of the mass media is enhancing the public sphere and providing a space where people from various communities can form a common opinion via a diversity of viewpoints, critical debate and reflective decision-making. These are some of the roles of journalists in a modern communitarian society. But this criticism takes a uni-dimensional view of
tradition as a static concept. Instead, it is an evolving process derived through reflection. This view of tradition is crucial to Alasdair MacIntyre’s explanation of community.

Macintyre (1985) rejects claims that liberal society (as a whole) is a community, arguing the individualistic focus of liberal societies is undermining the development of common values germane to community creation. MacIntyre (1985, 5; Sayers 1999, 148) suggests that identity is not determined by an isolated, morally neutral individual but instead is defined by the “shared framework of beliefs and values” of the roles played by that individual – in other words, the common values and beliefs of communities. He argues that these shared frameworks, which traditionally have defined identity, have been lost to modern society. He suggests that “the language and appearances of morality persist even though the integral substance of morality has to a large degree been fragmented and then in part destroyed” by the modern state. The predicament for the modern self is the dissolution of society into a mass of individuals pursuing their own ends, resulting in no shared understanding of what is good: a community-less society. MacIntyre believes the way out of this predicament is the traditional communal life and the Aristotelian conception of virtues. His analysis of modern society is relevant to journalism as he sees the relationship between practice and institution as corrupting and destructive. He (MacIntyre 1985, 194) argues that institutions – whether economic or political – are concerned with the external goods of profits and market power. Practices (which identify the internal goods used to define communities) cannot exist without the support of institutions and are therefore vulnerable to the “corrupting power of institutions”. He concludes (1985, 195):

For the ability of a practice to retain its integrity will depend on the way in which the virtues can be and are exercised in sustaining the institutional forms which are the social bearers of the practice. The integrity of a practice causally requires the exercise of virtues by at least some of the individuals who embody it in their activities; and conversely the corruption of institutions is always in part at least an effect of the vices.

A society where the external goods of institutions (vices) dominate the concept of virtues could suffer attrition and then something near total effacement, although
there may still be a semblance of virtue (Macintyre 1985, 196). This aspect of the communitarian critique of liberal theory is relevant to journalism in many ways because it relates to how we conceptualise the relationship between journalism and profits is conceptualised. This is an ethical issue which strikes at the heart of modern journalism. However, not all communitarians are as pessimistic about liberal society. Taylor (1995) argues the development of modern society has not led to the dissolution of all shared moral frameworks. Sayers (1999, 149) agrees, and attempts to reconcile the relationship between the individual and community. He explains (Sayers 1999, 149) the modern individual is born into a particular family, community or culture and that an individual has no choice but to accept the “constitutive” values of those moral frameworks. The individual cannot reject community values without, in effect, denying his/her own identity and turning it against him/her self. “In that sense such [community] frameworks are inescapable,” Sayers concludes (1999, 149).

But as the modern self socialises, the influence of family and social position is diminished. The individual “develops a new and more autonomous identity” which can be described as a partial or relative autonomy (Taylor 1989, 10; Sayers 1999, 150, 152). The individual’s identity is borne through the process of conflict and reconciliation of that conflict. Taylor (1989, 10) explains this process as a “work of retrieval” between individuals values and shared frameworks (Taylor 1989, 10).

Sayers (1999, 153) reconciles the relationship between communities and individuals in this way. First, he argues, “modern society is not a harmonious community from which...we can recover a coherent set of values or satisfactory identity. Rather the individual in modern society finds him or herself engaged in a plurality of conflicting roles and values”. Challenging views that see modern individuals as sharing a single univocal set of understandings, Sayers (1999, 153, 154) argues modern society is “developing tradition in which there is dialogue, debate and disagreement” and concludes “the understandings we share not only endorse existing practices but also criticise them”. Sayers sees community values are pluralistic and at times contradictory but most importantly dynamic. He (1999, 156) reconciles the relationship between individual and society through a process of conflict and discord, which he sees as defining individual identity and unity.
within society. He argues that moral detachment (promoted by liberal theories of journalists as isolated individuals and journalistic values of objectivity) results in a false identity. But he is also critical of the communitarian view that entrenched traditions should prescribe right and wrong, claiming blind acceptance of communal values also results in false identity.

We cannot form a satisfactory identity through a process that involves external compliance with all the demands made upon us: we must resist and reject some of them and develop the strength to become, outwardly and publicly, a determinate and distinctive presence of our own in the roles and relations in which we are involved.

(Sayers 1999, 156)

According to Sayers (1999, 156), the way towards this is through a process of conflict and discord, which results in new forms of unity and discord, according to Sayers. This analysis highlights the continuing nature of moral decision-making within modern society. Implicit in these arguments is the important role of the mass media (particularly journalism) in ensuring people can make reflective decisions about how to resolve those conflicts and discord. But it highlights the internal conflicts facing journalism, which have to balance journalistic, business and corporate goods. This conflict is a continuing process which may be resolved differently in different circumstances depending on the nature of the communities involved and the issues in question. However, decisions about reconciling discord are influenced by the common values identified by individuals as a result of a process of conflict and reconciliation. Sayers is explaining the process of tradition making. Applying Sayers theory of an individual’s relationship with society, journalism (as part of the mass media) plays an integral role in shaping society and shared values because it aids in the notion of community building by describing conflict and its resolution. To do this properly the media must provide a diversity of views, illustrating not only the conflict of values but the ways in which individuals and communities move towards shared values. At the moment in the Australian media, at least, conflict is extensively covered but there is little coverage of how people move towards shared values. When reporting the process of conflict and reconciliation between individual and community values, journalism helps maintain communities. If journalism fails to do this, then it simply reinforces majority views, stifling community-building and maintenance.
Viewed in this light, journalism is an amorphous concept shaped by nature of the conflict reported and the discord created by the reporting. The process of reconciling that conflict defines community and helps to identify common values to be taken into account when determining what is ethical reporting at the time – both internally and externally. Given the complex nature of contemporary society, journalism plays an important role in identifying those values because it is the vehicle by which people gather information about conflict and the reconciliation of that conflict. Journalism therefore plays an active (rather than passive neutral) role in an individual’s moral development by helping to define and maintain modern communities, and facilitate the process of tradition making.

Sayers’ approach suggests that journalism (and the mass media) play an integral role in all aspects of community and individual identity by describing conflict and its resolution. This view of communitarian theories of journalism differs greatly from traditional interpretations of communitarian views presented by Merrill. He (1996, 4) summarises the traits of a communitarian media model as:

- promoting restrained freedom;
- seeking civic transformation to promote common good;
- normative ethics codes;
- selflessness;
- market co-operation;
- social influence on policy;
- bonding conformity;
- group progress;
- other directed rather than individually focussed;
- a like-minded world view;
- positive, cohesive news;
- social guidance;
- universal solidarity;
• agreement on common ethics; and
• promoting media professionalism.

These traits reflect the extreme of communitarian views of journalism. One problem with Merrill’s categorisation of communitarianism is that it does not identify the range of communitarian theories as set out in this chapter. This can polarise the debate about journalism, forcing critics to take a particular view of journalism with the theoretical focus being on either the individual or the community, instead of trying to reconcile that relationship and acknowledging that at different times and in different contexts, individual values may take priority over community values because the process of reconciliation influences the common opinion. This can only be achieved in modern society if the media (and journalism) are creating a healthy public sphere, where people can access a diversity of views, engage in informed debate and develop reflective opinion. Sayer’s view of the communitarian paradigm is also helpful when evaluating the ability of professional and workplace codes to give effect to ethical journalism. If shared values are developed through a process of conflict and reconciliation, then all aspects of the dispute process are crucial. Not only should disputes be encouraged, but the processes and procedures must be transparent and accessible to all. The notion of media participation must be expanded to self-regulation. If reform focuses on one aspect of this process, pursuant to this conception of journalism, it is fundamentally flawed.

The communitarian critique of liberalism hinges on the liberal view of the individual as a rational human moral agent who assesses conceptions of good “from a universal and impartial moral standpoint” (Frankel Paul et al 1996, 1). The communitarian challenge to liberalism argues this conception of moral agency is “unrealistically abstract” because as “moral agents in the real world neither choose their conceptions of good nor occupy a universallistically impartial moral standpoint” (Frankel Paul et al 1996, 1). The communitarian view, as expressed by MacIntyre, Sandel and Walzer, is summarised as:

Conceptions of the good are determined chiefly by the communities in which they find themselves, and these conceptions are largely constitutive of their particular moral identities. Moral agency is thus situated and particularistic, and an impartial
reflection on the conception of the good that constitutes it is undesirable, if not impossible. Further communitarians contend, the good is prior to the right in the sense that moral norms are derived from and justified in terms of the good. An adequate moral and political theory must reflect these facts about moral agency and moral norms (Frankel Paul et al 1996, 1).

Characteristics of the *communitarian* state can be summarised as:

**Table 14: Characteristics of Communitarianism**

<table>
<thead>
<tr>
<th>Communitarianism</th>
<th>Roles of journalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common goods</td>
<td>Community creating</td>
</tr>
<tr>
<td>Community focus to individual choice</td>
<td>Community maintaining</td>
</tr>
<tr>
<td>Restrained freedom based on community needs</td>
<td>Access: Civic transformation</td>
</tr>
<tr>
<td>Individual identity derived from community (variously explained)</td>
<td>Information to ensure reflective common opinion</td>
</tr>
<tr>
<td>Tradition</td>
<td>Journalism performs political and social function</td>
</tr>
<tr>
<td>Cooperative market</td>
<td>Journalism creates space for formation of reflective public opinion</td>
</tr>
<tr>
<td>Good takes priority over rights</td>
<td>Not morally neutral – assumption of prior good, i.e. common good</td>
</tr>
<tr>
<td>Virtue approach to ethics</td>
<td>Virtue approach to ethics</td>
</tr>
</tbody>
</table>

**Why is this important?**

In this chapter, I have attempted to map the liberalism and the *communitarian* critique of it to characterise journalism within *neo-liberal, classical liberal, modern liberal* and *communitarian* paradigms. I will now go on to plot a theoretical continuum of the key priorities within those paradigms and chart the media typology associated with them. This will be used as a theoretical framework for identifying the ideological foci of the various conceptions of journalism and the journalistic values reflected in the codes of ethics. Before moving on to do this, I return to Figure 2 (repeated on following page), which depicts Fullinwidner’s template for professional codes. The template sets out the key characteristics of a professional code, which include a preamble that describes the moral and functional needs of the people directly served by the profession.
As this model depicts, the ideology (preamble) frames the definitional and operational functions of a professional code. Yet the MEAA’s “template of virtue” is operationalised in a strictly legal way, which means the ideology is not put into practice in the organisational reviews and the processes and procedures used to deal with complaints. When reviewing the nature of journalistic ethics, instead of starting the review by looking at journalism, it is important to start more broadly by looking at where journalism is in relation to society and how this shapes what journalism does (this includes media corporations, the self-regulatory bodies and the community in general). Current theories of journalism deal with this to some extent. Before attempting to remodel journalistic self-regulation, I need to position...
journalism within the social context in which it is being performed. This is summarised in the continuum set out below. It should be stressed however, that these approaches should be viewed as related bodies of thought that involve progression and retreat between the priorities of value.

**Figure 6: Theoretical continuum of Liberalism and its critiques**

<table>
<thead>
<tr>
<th>Value</th>
<th>Communitarian</th>
<th>Modern liberal</th>
<th>Classical liberal</th>
<th>Neo-liberalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freedom / Liberty</td>
<td>Restained freedom</td>
<td>Positive freedom</td>
<td>Negative freedom / individual liberty</td>
<td>Negative freedom / market freedom</td>
</tr>
<tr>
<td>Equality</td>
<td>Common good predominates</td>
<td>Equality to exercise rights</td>
<td>Equal before the law</td>
<td>Equal before the law</td>
</tr>
<tr>
<td>Market</td>
<td>Co-operative market to common good</td>
<td>Co-operative market of individuals</td>
<td>Competitive market</td>
<td>Free market (competitive)</td>
</tr>
<tr>
<td>Participation</td>
<td>Multi-dimensional: civic transformation</td>
<td>Opportunity to access market</td>
<td>Unilateral: competitive market ensure access</td>
<td>Unilateral (free market ensure access)</td>
</tr>
<tr>
<td>Ethics</td>
<td>Community-oriented towards common goods</td>
<td>Individual ethics interpreted in terms of social responsibility</td>
<td>Individual ethics Deontological Consequentialist Virtue</td>
<td>Individual ethics Deontological</td>
</tr>
<tr>
<td>Identity</td>
<td>Maintaining communities/ maintaining communities</td>
<td>Intellectual self-fulfillment</td>
<td>Self-fulfillment</td>
<td>Individual self-development</td>
</tr>
</tbody>
</table>

So how have these conceptions of an individual’s relationship with society affected the view of journalism? Siebert, Peterson and Schramm (1956, Lambeth 1995, 5) plotted the influences in the following way:
This typology was developed in 1956. Based on the analysis of communitarianism in this chapter, I argue its typology does not accurately reflect the range of theoretical influences on the conception of journalism, nor does it reflect the reality of the current media environment, particularly in Australia. Given Australian political life has emerged within a liberal framework, I have focussed on the liberal/communitarian debate rather than looking at the authoritarian model. While Australian polity carries the legacy of classical liberalism, contemporary society displays characteristics of modern liberalism, where the state intervenes to provide the economic and social conditions in which

<table>
<thead>
<tr>
<th>Authoritarian</th>
<th>Libertarian</th>
<th>Communist</th>
<th>Social responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed in 16th &amp; 17th Century Europe</td>
<td>Arose in England in late 17th Century Europe &amp; spread to America &amp; European continent</td>
<td>Arose in early 20th century USSR</td>
<td>Arose in mid 20th century US out of the libertarian tradition</td>
</tr>
<tr>
<td>Stemmed from absolute power of the monarch</td>
<td>Stemmed from Enlightenment</td>
<td>Stemmed from Marx &amp; Lenin</td>
<td>Stemmed from the writings of the Commission on Freedom of the Press and other critics of libertarian press</td>
</tr>
<tr>
<td>Purpose: To support state and leadership</td>
<td>Purpose: To help find truth inform interpret and entertain</td>
<td>Purpose: To support the Marxist system, to serve the people</td>
<td>Purpose: To educate and inform, to help social progress (intellectual freedom)</td>
</tr>
<tr>
<td>Licensing, censorship, autocratic power, laws</td>
<td>Editorial self-determination, separation of state and press</td>
<td>Media controlled by the communist party government apparatus</td>
<td>Press should be open to anyone with something to say</td>
</tr>
<tr>
<td>No criticism or threat to the power structure is permitted</td>
<td>Media controlled by owners in a free market of ideas and courts</td>
<td>Media cannot criticize party objectives</td>
<td>Social responsibility of press is more important than freedom</td>
</tr>
<tr>
<td>Owned by ruler, party or private persons</td>
<td>Nothing forbidden from publication prior to publication</td>
<td>Owned by the people</td>
<td>Controlled by community opinion and consumer action and by codes of ethics, press councils etc.</td>
</tr>
<tr>
<td>Forerunners: Hobbs, Hegel, Machiavelli</td>
<td>Private ownership</td>
<td>Developers: Marx, Lenin, Stalin, Mao, Castro, Gorbachev</td>
<td>No publishing of socially harmful information or invasion of private rights</td>
</tr>
<tr>
<td>Examples: Iran, Paraguay, Nigeria</td>
<td>Forerunners: Locke, Milton, Mill, Adam Smith</td>
<td>Examples: China, Cuba, North Korea</td>
<td>Private ownership but threat of government interference to assure public service</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Examples today: none, but tendencies include US</td>
<td></td>
</tr>
</tbody>
</table>
individuals can exercise freedom. For example, the state regulates markets with the introduction of laws such as the *Trade Practices Act*, and Fair Trading legislation. The media corporations face a range of regulations in terms of ownership, programming and content (ABA) and the manner in which information is presented (e.g. contempt and defamation laws). In terms of ethical conduct, the government has relied on the industry to uphold journalistic values and ensure accountability. Again, this highlights the *modern liberal* (particularly the social responsibility) influence on the Australian media environment.

But in recent times, the priority of Australian political and social life has moved from a model where state intervention was justified to ensure equality of citizenry to exercise their rights to a market-oriented society. The primary political focus is on ensuring a free market, reflecting a *neo-liberal* perspective. McKnight (2003, 356) claims the *neo-liberal* political views of Rupert Murdoch have been highly influential on the Australian newspaper scene, which has the potential to change the Australian political climate. He concludes:

> There is overwhelming evidence that the political views of the proprietor, Rupert Murdoch, strongly determined the outlook and ideological bias of his newspaper *The Australian*. In sum, the evidence consists of first, that Murdoch himself has pronounced political and philosophical views; second, that he has made those views known to editors and senior staff throughout his career; third, that his views evolved towards neo-liberalism and that his flagship Australian newspaper between 1976 and 1983 strongly supported this (then) minority trend within conservative thought (McKnight 2003, 356).

Doyle (2002, 13, McKnight 2003, 356) contends that this over-exposure of *neo-liberal* values via the concentration of media ownership can lead to “over-representation of certain political viewpoints or values or certain forms of cultural output (material products) at the expense of others. In view of this situation, I have plotted the media models in terms of the key theoretical influences within Australian society: *neo-liberalism, classical liberalism, modern liberalism* and *communitarianism*. Based on this analysis I offer a theoretical continuum that charts the ideological influences on the Australian media.
To summarise the previous discussions, the major difference between *neo-liberalism* and *classical liberalism* lies in the emphasis on market freedom and the value attributed to property. These concepts take a greater priority in *neo-liberalism*: the marketplace takes priority over individual choice, resulting in a focus on what the market wants rather than what the individual sees as important. Both *neo-liberalism* and *classical liberalism* are founded on a negative conception of freedom, in that liberty is assured through minimum state control. In the case of *classical liberal* theory, the lack of state control relates to the individual and *neo-liberal* theory postulates minimum state control of the market.

*Modern liberalism* takes a more positive conception of liberty, where individual liberty is seen as counting the most when theorising an individual’s relationship with society, but this cannot be achieved without equality of rights; equality to exercise those rights; tolerance and justice. *Modern liberalism* is individualistic but it recognises that individuals are united by common values: a commitment to responsible exercise of rights and not unjustifiably harming others. *Modern liberals* accept individuals can be bound by common goals and therefore encourage professionalisation.
Communitarianism is a post-liberal theory, founded as a critique of liberalism where the focus shifts from the individual to the community in which individuals exist. The community frames individual values in that individual identity is interpreted in light of community. Communitarian theories are diverse, responding to different aspects of liberal theory. Some see common good determined from tradition (MacIntyre) and social practices (Sayers, Taylor), but they all agree that to differing degrees community rights take priority over individual rights. Given the priority of community in describing the relationship between individuals and society communitarian theories emphasise participation, character, solidarity, social responsibility and co-operation driven (see Daly 1994, xvii-xix). The following table summarises the key priorities of these four theories of an individual’s relationship with society. Obviously, these categorisations are generalisations and are not intended to be complete descriptions of these theories.
Table 16: Conceptual properties of theoretical categorisation

<table>
<thead>
<tr>
<th>Communitarian</th>
<th>Modern liberalism</th>
<th>Classical liberalism</th>
<th>Neo-liberalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>What is basic to explanation of individual’s relationship with society? Individual</td>
<td>What is basic to explanation of individual’s relationship with society? Individual</td>
<td>What is basic to explanation of individual’s relationship with society? Individual</td>
<td>What is basic to explanation of individual’s relationship with society? Individual</td>
</tr>
<tr>
<td><strong>Hierarchy of priority</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation in society, a health public sphere.</td>
<td>Equality of rights</td>
<td>Individual freedom or autonomy</td>
<td>Individual freedom in terms of market Negative freedom</td>
</tr>
<tr>
<td>Positive freedom</td>
<td>Positive freedom</td>
<td>Negative freedom</td>
<td></td>
</tr>
<tr>
<td>State intervention to promote community participation</td>
<td>Equal rights to ensure rights can be exercised.</td>
<td>Equality before the law (lack of state coercion) to</td>
<td>Lack of state control of market to ensure individual freedom.</td>
</tr>
<tr>
<td></td>
<td>State intervention accepted if justified</td>
<td>ensure individual freedom</td>
<td></td>
</tr>
<tr>
<td>Community good derived through co-operation</td>
<td>Individual self-interest derived through common/shared values</td>
<td>Individual self-interest derived through individual autonomy</td>
<td>Individual self-interest derived through market</td>
</tr>
<tr>
<td>Co-operative market</td>
<td>Co-operative market</td>
<td>Free and competitive market</td>
<td>Free &amp; competitive market (modelled on traditional successful models)</td>
</tr>
<tr>
<td>Community values</td>
<td>Shared ethical values</td>
<td>Individual ethics</td>
<td>Individual ethics</td>
</tr>
<tr>
<td>Virtue approaches to ethics</td>
<td>Utilitarian approaches to ethics</td>
<td>Deontological &amp; utilitarian approaches to ethics</td>
<td>Deontological approaches to ethics</td>
</tr>
<tr>
<td>Community values promoted</td>
<td>Common/shared values promoted</td>
<td>Morally neutral</td>
<td>Morally neutral</td>
</tr>
<tr>
<td>Preferred values, community building &amp; maintaining</td>
<td>Preferred values (promoting professionalisation)</td>
<td>Individualistic ethics resulting in diversity of moral viewpoints</td>
<td>Individualistic ethics resulting in diversity of moral viewpoints</td>
</tr>
<tr>
<td>Ties &amp; tradition determine community. Various sub-communities within society</td>
<td>Community defined by a commitment to minimising harm &amp; maximising happiness</td>
<td>Community of one</td>
<td>Community of one</td>
</tr>
</tbody>
</table>

But how does this relate to journalism? I have already developed a theoretical continuum describing the media priorities according to neo-liberal, classical liberal, modern liberal and communitarian conceptions of modern society. The mass media is a product of modern society but it is also true to say that modernity is the product of the mass media. Therefore, when conceptualising the relationship between an individual and modern society, it is also important to describe the role of the mass media (including journalism). This discussion focuses on journalism rather than the mass media. To state the obvious, the perception of the role of
journalism in society will be affected by how society is viewed and the relationship between individuals. This in turn, will affect what is perceived as ethical. Based on the discussion in Chapter 2, I now translate the theoretical continuum into a tabulated typology of media models.

**Table 17: Typology of media models**

<table>
<thead>
<tr>
<th>Communitarian</th>
<th>Modern liberal</th>
<th>Classic liberal</th>
<th>Neo liberal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to the media (via codes and other avenues) in order to effect civic transformation (multi-dimensional view)</td>
<td>Political participation by promoting equality of rights (codes of ethics) Uni-dimensional view of participation.</td>
<td>Political participation Uni-dimensional view of participation.</td>
<td>Political participation via unregulated market. Uni-dimensional view of participation.</td>
</tr>
<tr>
<td>Community participation</td>
<td>Institutional legitimacy</td>
<td>Institutional justification of limitation on individual rights</td>
<td>Institutional justification for limits on market freedom</td>
</tr>
<tr>
<td>Community creating</td>
<td>Promoting justice &amp; tolerance (social responsibility)</td>
<td>Maintenance of free market</td>
<td>Maintenance of free market</td>
</tr>
<tr>
<td>Community participation and access to the media Accountable to public</td>
<td>Media participation i.e. journalists ability to responsibly exercise free speech Accountable to profession</td>
<td>Individual free speech &amp; journalistic self-determination Accountable to self</td>
<td>Marketplace determines value Value equates to material possessions Market accountability</td>
</tr>
<tr>
<td>Community maintaining Public accountability</td>
<td>Presumption of good seen in terms of minimising harm (utilitarian approach to ethics). Common &amp; shared goals (responsible journalism as determined by profession) Professional accountability</td>
<td>Morally neutral because no moral position favoured Individual accountable to self</td>
<td>Morally neutral because market does not take a moral position Market determines accountability</td>
</tr>
<tr>
<td>Common goods; promotes professionalism and codes as well as public input into the news process State intervention if justified</td>
<td>Presumption of good (social contract), promotes professionalism and codes Professional intervention</td>
<td>Anti-professional and anti-professional codes Limited intervention</td>
<td></td>
</tr>
<tr>
<td>Reflective public opinion</td>
<td>Individual autonomy</td>
<td>Public interest</td>
<td></td>
</tr>
</tbody>
</table>

These characteristics can be summarised into a simple continuum which reflects the key characteristics:
In the following chapters I extend on this analysis by canvassing recent theories of journalism to evaluate the influence of contemporary theories of society on the conception of journalism. Journalism has been viewed as a quasi-political institution – the fourth estate (Schultz 1998; Stockwell 1999) and the product of private commercial institutions (Sheridan-Burns 2001; Oakham 2001; Hirst 2001). Others see journalism as part of a process of creating and promoting communities through public interaction at a political and civil level (Meadows, 2001; Carey 1997, 1-17). This analysis is designed to offer insights into the ability of the current system of journalistic self-regulation to give effect to ethical journalism. As Chapter 1 has illustrated, reform of journalism ethics has tended to focussed on issues (privacy and other problems), processes and rules. Reviews have not sought input into the ideology which frames the industry’s conception of journalism. This has resulted in new rules, revised processes, and threats of government controls. These investigations into journalistic ethics have not sought to analyse the origins of the ideologies or the appropriateness of determinative processes to give effect to journalism’s internal goods. So I will now consider how journalism is conceptualised and attempt to plot the ideological focus of these approaches.
Chapter 4

What is journalism? A defining moment for ethics

4.1 Introduction

As Chapter 3 has illustrated, there are many theoretical explanations of the individual’s relationship with society, but essentially they fall into two general categories: the liberal theories that see the individual as sovereign and socially unencumbered and the communitarian perspectives that conceptualise a socially embedded individual whose identity is derived from the community. I will now use the theories of liberalism and communitarianism to provide a theoretical framework for identifying the ideologies the underpin contemporary conceptions of journalism. This involves a number of steps. In this chapter, I critically examine recent explanations of journalism and position these descriptions within the frameworks of neo-liberalism, classical liberalism, modern liberalism and communitarianism. This analysis will be used (in later chapters) to help identify the ideological foci of the values framing journalistic perceptions of what is ethical.

When theorising journalism and journalism ethics for the purposes of examining the ability of the current system of self-regulation to give effect to ethical journalism, it is important to postulate a theory that describes what journalism is, how it is done and what it should be. By articulating a theory that provides these explanations, I offer a complete theory of journalism, which then can be used to identify the conceptual shortfalls in the current system of journalistic self-regulation. But why do I need to track contemporary conceptions of journalism? An example may help explain my point. When The Age newspaper accused
Aboriginal and Torres Strait Islander Commission\(^7\) chief Geoff Clark of raping four women, the publication justified its story on the grounds of public interest. The front-page story of 14 June 2001, named people who claimed to be the victims of rape; it judged their stories to be true; it accused a prominent Aboriginal ‘politician’ of rape; it damaged reputations; it exposed political divisions; and it revealed power at play. It tested the boundaries of journalistic ethics and what is journalism and it prompted strong responses: some commending \textit{The Age} on courageous journalism; others condemning it for acting as judge and jury, sparking political unrest within Aboriginal communities and going beyond what is journalism.

\textit{The Age} claimed the public had a right to know about these claims because Clark was a prominent public figure (\textit{The Age} 14 June 2001, 1). Many journalism commentators (Chadwick & Mullalay 1997, 17; Chadwick 1996, Schultz 1998, Tapsall & Varley 2001) see this as a major role of journalism – facilitating the public right to know and acting as society’s independent watchdog. They rely on contractarian justifications for journalism’s authority to report to society, arguing the relinquishing of rights by the public gives rise to journalistic duties and obligations of accountability. Chadwick (1996), who endorses this explanation of journalism’s relationship with society, sees the profession as the agent of accountability, rejecting any moves towards government control. This reflects a modern liberal view of journalism and journalism ethics, where individual journalists share common goals and values.

John C. Merrill (1990, 77; 1996) on the other hand is anti-professionalisation of journalism. He claims this notion of social responsibility – the cornerstone of the \textit{professional} journalist – is undermining journalistic freedom, resulting in consensus journalism and the enslavement of journalists. Merrill sees journalists

\footnote{\(^7\) The Aboriginal and Torres Strait Islander Commission is Australia’s national policymaking and advocacy organisation for Indigenous people. It is an independent statutory authority established by the Commonwealth government in 1990 under the Aboriginal and Torres Strait Islander Commission Act (1989).}
as individuals whose good character determines what is ethical and that these individuals should be free to report what they want and how they want within the bounds of law\(^8\). Merrill’s views are grounded in classic liberal arguments.

While both these viewpoints are espousing a liberal theory of journalism, the outcomes – in terms of approaches to ethics – are very different. One accepts limitations on individual autonomy if justified in terms of the greater good for the greater number (a utilitarian approach to ethics) while the other accepts no such limitations, demanding acceptance of a wide variety of ethical approaches depending on the personal ethics of the individual journalist (a Kantian deontological approach). This example highlights the relationship between how journalism is conceptualised and what is seen as ethical. It can also affect how ethical decision-making is approached. The obvious next questions (in relation to this project) are: What are the conceptions of journalism and how have these influenced the codification of journalistic values? In this chapter I canvass recent theories of journalism, categorising them according to approaches to defining journalism and ideology. I also critique these approaches in terms of their ability to offer a complete description of journalism.

Journalism theories will be categorised in terms the conceptual properties identified in the previous chapter: classical liberal, neo-liberal, modern liberal and communitarian. To recap, the liberal tradition is grounded on personal freedom in terms of a lack of state control. Liberal theories are individualistic and morally neutral. An individual’s personal ethics take priority over social good. Approaches to ethics are both deontological and consequentialist. In terms of economics, liberals focus on competitive market and the right to acquire property (see Daly 1994, xvi, xvii). Communitarians, on the other hand, have a more co-operative approach to identity, participation, economics and ethics. Tables 16 and 17 set out

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\(^8\) It should be stressed at this point that the focus of this discussion is not on the question of whether journalism is a profession. This review of literature aims to canvass contemporary theories of journalism and position them within current debate about liberalism, in particular the modern and communitarian critiques of liberalism.
the key differences in these ideological approaches. I will now attempt to categorise a range of theories of journalism into these conceptual categories in order to ground my criticism of contemporary descriptions of journalism in terms of their ability to describe what journalism is, how it is done and what it should be.

4.2 Approaches to describing journalism

In this chapter will canvass a wide range of literature theorising journalism, identifying several approaches to describing it. The first approach, which I describe as *functional*, defines journalism by what journalists do (Winkler 1996, 15; Tapsall & Varley 2001; Schultz 1998; Windschuttle 1998; MEAA Code of Ethics 1996; APC Statement of Principles 1996). This appears to be the starting point for most theorists. Winkler (1996, 15) explains that a functional approach looks at the basic functions of journalism in a liberal democratic society, which he sees as including a political, informational function as well as an historical and educational functions. The moral principles and standards of the profession will derive from their perceived functions. I agree with Winkler’s observation about the relationship between the conception of journalism and professional values, but I believe we need to take the analysis further to see whether these perceived functions actually offer a complete explanation of journalism. Several theorists, who take a functional approach to describing journalism, have perceived some deficiencies in the approach. They go beyond simply describing what journalists do within society to include the values journalists need to display in order to properly perform these roles. This approach will be described as a *value added functional approach*. The *institutional perspective*, where journalism is seen as a civil institution that oversees the workings of the state (and other institutions) is still influential in contemporary perspectives on journalism (Schultz 1998). This view of journalism has been highly influential in the evolution of a theory of journalism that takes a social contract approach to describing journalism (Chadwick 1996, 1998; Stockwell 1999). It relies on social contract theory or a view of information as a means of political and social control. This theory will be described as a *social contract view* of journalism. Other theorists start by looking at what is produced and describing what journalism is: a product or business
(Sheridan-Burns 2001; King 1997). Journalists are perceived as workers who produce a commodity. This approach to describing journalism, which I will describe as a commodity theory, relies heavily on economic concepts. Another approach has evolved from the criticism of journalism viewed as a product or commodity. Theorists acknowledge the economic paradigm in which journalism is created but see the individual journalists possessing the intellectual freedom and/or character traits to go challenge market constraints. This view of journalism accepts it is a commodity created by autonomous or substantially autonomous agents (Merrill 1990; Oakham 2001). I describe this theory as the autonomous agent theories. Criticism of the commodity theory has also seen journalism described as a collective of workers whose common values and goals transform their product into cultural capital (Hirst 2001). The future of journalism lies with the workers collective. This approach sees journalism as community building in the sense that the common goals and virtues of journalists form a community of workers. Another perspective on journalism is to describe it as a cultural practice, where journalism is instrumental in community formation and maintenance (Meadows 2001; Meadows 1998; Carey 1995; Zelizer 1992; and to a lesser extent Hirst 2001). This theory will be referred to as the cultural practice theory.

Having classified the key approaches to defining journalism, I will now look at these perspectives in more detail to distil their ideological foci and comment on their completeness in terms of describing what journalism is, how it is done and what it should be.

### 4.2.1 The functional approaches

King (1997, 23) takes a functional approach to defining journalists by outlining what journalists do, concluding that journalists find the truth, try to interest and engage their audience, act independently and question society, support society’s wider views, communicate clearly and report fairly. This approach to defining journalism outlines some technical skills but those skills do not define journalism unless they are performed in a way that reflects key values such as fairness and independence. A functional approach that merely describes technical skills does not distinguish journalism from other forms of professional communication. King combines the “social and practical” aspects of journalism (Tapsall and Varley
2001, 5). But his view of journalism does not fully describe the relationship between journalists and society, describing what a journalist does in terms of the market. By focussing on the social functions of engaging the audience and supporting consensus, this description reinforces a view of journalism as a commodity delivered by autonomous individuals who bring the values of truthfulness and objectivity to their product. However, the journalist’s responsibility is to his/her audience and not the general public and the consensus of wider community opinion is good journalism. The core values that underpin journalism, as described by King, reflect a neo-liberal ideology where the marketplace determines value and ethical quality.

The value-added functional approach to describing journalism has been adopted by a number of journalism academics, commentators and journalistic organisations (Tapsall and Varley 2001; MEAA 1999; APC 2003). Journalism codes have endorsed this approach. For instance, the Professional Code of Ethics for Quebec Journalists states “journalists perform multiple functions including researching, reporting, interviewing; writing or preparing reports, analyses, commentaries, or specialised columns; translating or adapting texts; press photography, filmed or electronic reports; assignment, the desk (headlines, layout), editing, caricatures; information drawing and graphics; animation, producing and supervising current affairs programs and films, managing news, public affairs and other comparable departments”. The Code (International Journalists’ Network (a) 2002, 2) then goes on to identify fundamental journalistic values to include taking a critical viewpoint on everything, being impartial, fair, independent, displaying public respect and compassion, being honest and being receptive to unfamiliar realities and reporting without prejudice. It also prohibits any journalist from performing public relations. Here journalism is defined by the actions performed and the values held by the people performing it. The values of independence, fairness, honesty and tolerance are seen as partially definitive of journalism. This value-added functional approach to describing journalism frequently outlines values of public responsibility as a means of distinguishing journalism from other forms of information communication. The point to note in relation to this approach is that the actions or technical skills alone cannot describe journalism. These technical skills are converted into journalism when
they are conducted in a way that reflects the core values seen as the hallmarks of excellence. The technical skills employed by journalists (the craft skills) are not enough to describe what journalists do.

The tensions between craft (technical skills) and journalism have been noted (Oakham 2001). But they have been expressed in terms of a tension between craft and profession. I see the tension as ideological: which ideological perspective is framing the interpretation of values that distinguish journalism from other forms of professional communication. If journalism is viewed as a commodity, there is no distinction between journalism, business and the corporate structures that support journalism. I argue throughout this chapter that theories of journalism that fail to articulate this distinction are contributing to the ethical dilemmas facing journalism.

Despite the limitations of King’s description, the value-added functional conception of journalism is useful in identifying the ideological underpinning of journalism: first it positions journalism’s role in society in terms of how it is done and it identifies the key values that are seen as ethical. If nothing more is said, then such approaches reflect a shared conception of what is ethical journalism, suggesting strong modern liberal influences. However, a further examination of King’s definition reveals a view of a journalist’s relationship with society that is determined by the market. This market orientation suggests strong neo-liberal influences. A number of Australian codes also adopt a value-added functional approach to defining journalism, including the MEAA and Australian Press Council9. The Media Entertainment Arts Alliances (AJA) Code of Ethics states:

Respect for truth and the public’s right to information are fundamental principles of journalism. Journalists describe society to itself. They convey information, ideas and opinions, a privileged role. They search, disclose, record, question, entertain, suggest and remember. They inform citizens and animate democracy. They give a practical form to freedom of expression. Many journalists work in private enterprise, but all

9 The sample of codes will be considered in more detail in the next chapter where I attempt to identify their ideological focus.
have these public responsibilities. They scrutinise power, but also exercise it, and should be accountable. Accountability engenders trust. Without trust, journalists do not fulfil their public responsibilities (MEAA (AJA) 1996, 1).

The code describes the roles performed by journalists to identify what is journalism and uses implicit contractarian arguments to legitimise journalists’ authority to report and provide information to society. It does attempt to describe the relationship between journalists and society. The identification of key values which underpin journalism – honesty, fairness, independence, respect for the rights of others – suggests a collective of individuals who share common goals (modern liberal). The Australian Press Council’s preamble is harder to interpret. It reads:

The freedom of the press to publish is the freedom of the people to be informed. This is the justification for upholding press freedom as an essential feature of a democratic society. This freedom, won in centuries of struggle against political and commercial interests, includes the right of a newspaper to publish what it reasonably considers to be news, without fear or favour, and the right to comment fairly upon it.

Second, the freedom of the press is important more because of the obligation it entails towards the people than because of the rights it gives to the press. Liberty does not mean licence. Thus, in dealing with complaints, the council will give first and dominant consideration to what it perceives to be the public interest (APC 1996, 1).

The principles describe the relationship between “the press” and society, suggesting the “press” has an identity independent of journalists. In 2003, the APC introduced a Charter for a Free Press in Australia, which reinforces this view of ‘the press’ as an institution comprising proprietors and the journalists they employ. This conception of journalism does not address the extent to which the press is a collective of individuals or a community of professionals or some other dialogical or mediated community. Therefore, the functional approach to defining journalism falls short of the intellectual engagement needed to articulate a theory of journalism that reflects what journalism is, how it works and what it should be.

Tapsall and Varley (2001) begin their investigation into what is a journalist by getting journalists to describe what they do. They surveyed and interviewed journalists working for Queensland daily news organisations and interviewed
reporters and editors in major television, radio and print news services in Sydney and Melbourne to determine their impression of the role they perform. Respondent journalists described themselves as news workers, information workers, gatherers, reporters, entertainers, historians, researchers, explainers, probers and writers, editors, communicators, storytellers, producers and presenters (Tapsall & Varley 2001, 6,7). The study found that journalists infrequently used values to describe themselves (Tapsall & Varley 2001, 6). But they found that a sense of public good and responsibility distinguished journalists from other information providers. The study acknowledged that journalists were a link in the information chain that fed society. This chain included media proprietors and their shareholders, advertisers, public relations practitioners, writers and commentators, actors and agents. While not articulating the “priority” in this relationship, the study found the attributes, which distinguish a journalist from other information providers, are a commitment to public good and a notion of responsibility that goes beyond self and employer. It concludes (Tapsall & Varley 2001, 17).

It is obvious that in the information age, the ability to convey information, communicate and make knowledge accessible is in high demand. As a result, there are many different types of information workers fulfilling various communicative functions and using what traditionally have been considered journalistic skills to do so. Ultimately, the essence that distinguishes journalists from these other information brokers might be the commitment to the public good and the notion of responsibility that goes beyond self and employer. This commitment will need to be balanced with a commitment to truthfulness, accuracy and personal and professional integrity and a realistic appreciation of the current dependence of journalists on the news organizations’ bottom-line.

This study identifies two communitarian aspects of journalism. First, the act of journalism is not an individual act. Journalism is a product of multiple participants. Secondly, journalists are distinguished from other professional communicators by their commitment to public good, which should be determined by taking account of the values of both the professional community and the public. Collective responsibility becomes a way of defining journalism. However, the study found that when interpreting their “responsibility” 60 percent of the survey respondents saw themselves as responsible to their employer, while 20 percent were responsible to their public or community and 15 percent were
responsible to their audience (Tapsall & Varley 2001, 7). In terms of priority of responsibility the community came before themselves and their audience. Interestingly, there was no evaluation of how journalists’ perceive responsibility to their “profession”. This is a strange omission given the accountability processes are encouraging professional standards. This study bears out the view that journalists have abandoned the libertarian view of autonomy and accept they are members of a wider community, reflecting a modern liberal view of journalism. But the community to which they saw themselves belonging was not a community of professionals but a workplace community that includes proprietors, shareholders and other sources of news (including public relations practitioners). The fact that the majority of respondents (60 percent) to this study saw themselves as accountable to their employer needs further discussion. If a journalist’s notion of responsibility is framed by a sense of responsibility to their employers, the values that define ethical journalism will also be framed by the journalists’ perception of the employer’s ideological approach to journalism. Regardless of the ideological focus of the values reflected in the codes, they are vulnerable (and this study suggests highly vulnerable) to being interpreted from a different ideological perspective in the workplace.

Tapsall and Varley’s description of journalism does not explain the tension between journalism and the corporate structures that facilitate it. It appears a large number of journalists – at least in this study – do not distinguish what they do as journalists from the business of journalism and the corporate stakeholder that employs them, suggesting strong neo-liberal influences in their understanding of their roles.

4.2.2 The institutional and social contract views of journalism

The concept of “the press” as an institution has emerged from the view of journalism as the fourth estate. Since the mid-1800s, the press – as opposed to the mass media – has been seen as society’s independent watchdog. This view of “the press” as gatekeepers is a key factor in elevating journalism to a civil institution which performs civic, economic and political functions (Schultz 1998, 23-27). The concept is criticised, particularly in contemporary society where media corporations wield more political and social power than some sovereign states.
This forced Schultz (1998, 22) to redefine the fourth estate ideal for the contemporary Australian journalist as “keeping a check on (all forms) of corruption becoming institutionalised” which includes the major corporations and itself. While this view obviously does not fully explain the relationship between journalism and society, the historical notion of the fourth estate has facilitated legitimisation of journalism as a profession and helped journalists and media corporations to collectively resist any moves toward state regulation to encourage ethical journalism. It has helped journalism legitimise “the profession” which oversees accountability.

The fourth estate notion has helped the press build the mass audiences the institution now boasts. As Schultz notes, the press used its role as society’s watchdog and source of ‘truthful’ information to gain legitimacy or authority. One consequence of the evolution of the notion of a fourth estate is that journalists – who fearlessly reported the ‘truth’ – became the ‘noble’ journalist, whose ethics Chadwick sees as being the best check on institutionalised abuse of power (Chadwick 1996, 246). While pursuing legitimate ends, journalists, and the people/corporations who profited from their product, benefited from the legitimacy institutionalisation brought. The press was able to use its commitment to keeping check on potential government abuses to increase sales and make its product indispensable to the general populous which increasingly came to depend on journalism as its source of information. In many respects, the notion of the fourth estate helped create “the general public”, an abstract community whose collective right to know the press champions, even now. This legitimacy also facilitated the growth of a “market”, which now reaches globally. As Schultz

10 The Australian Press Council Charter (introduced in May 2003) states in a truly democratic society open debate, discussion, criticism and dissent are central to the process of generating informed and considered choices. These processes are crucial to the formation of values and priorities and help in assessing and finding solutions to social, economic and political problems.

A free press is a symbol of a free people. The people of Australia have a right to freedom of information and access to differing opinions and declare that the following principles are basic to an unfettered flow of news and views both within Australia and across the nation’s borders.
(1998, 29) notes, “the process by which the press was able to create a legitimate space and assume the authority of the fourth estate was a remarkable experience in political lobbying and marketing – an abject lesson for other industries seeking to reinvent themselves as institutions”.

It is well accepted that the idealised fourth estate role of journalism has aided the abstraction of journalists from members of a community to the agents of freedom and protectors of rights, creating a community of professionals bound by common goals and values. In some respects, the fourth estate set the scene for the professionalisation of journalism and the progression from a libertarian to modern liberal ideology. Schultz’s 1998 Media and Democracy study attempted to gauge whether contemporary Australian journalists still uphold the fourth estate ideal and determine whether they can fulfil the role. Schultz found the contemporary Australian journalist did subscribe to the idealised role of the press as the fourth estate, but the ability of journalists to fulfil this role was flawed, primarily because journalists have become distant from the public they helped create (Schultz 1998, 235-236). The inability of journalists to perform this idealised role has prompted several critics (Oakham 2001; Hirst 2001; Meadows 2001) to reject the fourth estate ideal with Meadows (2001, 44) calling for a re-examination of how the fourth estate has shaped modern journalism. Notwithstanding these criticisms, the studies conducted by Schultz, Tapsall and Varley suggest Australian journalists perceive social responsibility as a key function in the role they perform, offering support for the social responsibility theory of journalism. From whose perspective responsibility is evaluate is certainly still unclear, but it is highly possible that journalists will be influenced by what they think there employers would view as responsible conduct rather than relying on their own sense of right and wrong.

This observation throws some doubt on the arguments of Chadwick (1996, 246), who believes journalists have a “noble purpose” as “sentries who watch and warn; guides who search map and explain; scribes who listen and record; witnesses with courage to speak; hosts to debates among others; advocates for the weak and keepers of the collective memory”. He sees the collective memory as being recorded by journalists, whereas Zelizer (1992, 1-9) argues journalists are instrumental in creating the collective memory because they circulate “preferred versions of reality”. Journalists actively decide the “preferred” version of reality.
They are not impartial observers. They are active agents in the process of community building. While Chadwick describes the functions journalists perform, he puts these functions into a political and legal framework of rights, duties and responsibilities: a contractarian justification for journalistic authority. He argues that journalists are the facilitators of the public right to know (Chadwick & Mullaly 1997, 17). But he also acknowledges that journalists should protect the weak from harm. His arguments have a Millian resonance, with a utilitarian ethical focus. Using implied social contract theory, Chadwick is able to argue journalists should be substantially autonomous agents, while still being accountable to their public. He opts for a process of self-regulation where individual journalists delegate their moral agency to self-regulatory bodies. He claims journalists must be accountable to themselves rather than the state or economic institutions that support journalism. Here Chadwick tries to address the issue of the relationship between the various stakeholders, suggesting the journalism is independent of the corporate structure that supports it.

In terms of approaches to ethics, Chadwick acknowledges that journalists perform utilitarian functions, such as being advocates for the weak; but he reverts to professional rules set out in journalism codes to uphold and encourage ethical journalism. While acknowledging the need for professional accountability, Chadwick maintains that journalists must feel they have control of the processes (they must have the freedom to pursue self-development). His approach to accountability focuses on codification of journalism ethics and the development of processes designed to uphold those codes. However, the ability of journalists to perform their role in society is dependent on the good character of the individuals. While relying heavily on a rule utilitarian approach to ethics, this emphasis on individual character introduces aspects of virtue of character to the debate on journalism ethics. Chadwick’s more recent work on ethics (1998) takes an interesting shift from his rule utilitarian approach to ethics. He calls for a holistic approach addressing the tensions between the business and journalistic functions

11 The approaches to journalism ethics and definitions of the various approaches will be discussed in more detail later.
of journalism. I will discuss these issues in more detail later. For now, it is important to note, that Chadwick acknowledges the need for a more complete explanation of the relationship between journalism, media business and the corporate structures that support it.

Chadwick’s conception of journalism is influenced by modern liberal theory which acknowledges society as a collective, bound by a commitment not to cause unjustified harm to others. The only acceptable constraints on journalism are those agreed to by the community of journalists which are justified because they respect the rights of others and ensure equality of opportunity to exercise those rights. Chadwick’s view of journalism borrows heavily from the highly influential Hutchins Commission report (1940), titled *A Free and Responsible Press*, which called for greater journalistic responsibility. Social responsibility theory relies on contractarian arguments that “a society dependent upon the media for its information will demand a degree of accountability from its practitioners far beyond the minimum requirements of the law” (Mason 2000, 3). The need for limitations on journalistic freedom are justified to ensure accountability to the public because there “is an implied contract between the public and the media…evidenced by the existence of special privileges conveyed to the media” (Mason 2000, 3). Black (1995, 33) acknowledges these privileges are granted for two reasons: to ensure the free flow of ideas and to redistribute power from government and societal institutions to the people (classic liberal roles of the press, but modern liberal conceptions of accountability that go against the libertarian conceptions of autonomy).

The modern liberal conception of journalism (as articulated through the theory of social responsibility) recognises some justified harm may be caused by journalists doing their job. It suggests, too, that journalism, as an institution, must justify its authority and seek to legitimise its position. This approach gives rise to concepts such as public good and public interest and accountability to the public, where the public is united as a community defined by its commitment to individual freedom, equality to exercise that freedom, a commitment to justice i.e. not unjustifiably harming others and participation in government. Journalists are a collective of individuals bound by common goals and values. Journalism derives legitimacy from the implied contract to perform journalism responsibly. A responsible
journalist must be accountable. Mason explains (2000, 3) “a society dependent upon the media for its information will demand a degree of accountability from its practitioners far beyond the minimum requirements of the law”.

Media transgressions are made in public and discussed in public and journalists are often called upon to defend publishing decisions. These defences must be more than falling back in constitutional and legal protections. A journalist should be prepared to articulate the morality of decisions and actions in terms of journalistic obligations to the public (Mason 2000, 3)

This suggests the media should be accountable to the public. I suggested in Chapter 1, that the common approach to journalistic accountability in Australia has been to develop a code of ethics or a code of professional standards and to permit members of the public to complain about the media. This has resulted in a reactive, conflict driven, and at times, quite legalistic (in terms of adopting determinative procedures) approach to accountability. These codes, whilst interpreting accountability, also aim to encourage ethical journalism. Therefore Australia’s approach to encouraging ethical journalism has focussed on codified values, which identify common goals and values creating intra-professional communities within journalism. This view of accountability has resulted in a wide acceptance of codes of ethics/practice to help justify journalistic authority and to legitimise journalistic decisions about intrusions of individual rights such as privacy. The roles performed by codes go beyond encouraging ethical journalism and the question of encouraging ethical journalism goes beyond codes.

4.2.3 Critiques of the fourth estate: Autonomous individuals, cultural commodity and cultural practice

Merrill (1990, 1992, 1997) is critical of this modern liberal conception of journalism, arguing it stifles debate and limits diversity of views. It can reinforce majority views and encourage moral elitism within the journalistic and wider communities. Merrill sees journalism as justifying its authority through a commitment to freedom and individual autonomy. Journalistic legitimacy is derived from this commitment, reflecting a classical liberal position which is hard to sustain given the value frameworks and power of the economic and political institutions which support journalism. Merrill is arguing that journalists require
the ideological freedom to interpret what is good and bad journalism. However, the ability of journalists to express a diversity of views and a diversity of ethical viewpoints is dependent on their ability to get their message out. In an environment where shrinking media ownership sees News Limited control the majority of Australia’s newspapers, this view of journalism does little to explain how the Australian industry can use self-regulation to encourage ethical journalism. Merrill needs to address the ways in which journalists can empower themselves with ideological freedom.

Elliot (1997, 219) sees the role of journalists as “telling people what they need to know so they can participate in self-governance” and part of this is being advocates of the weak. But Elliot cautions that concepts such as justice and compassion can interfere with the news process and result in “unethical” journalism. She argues (1997, 218, 218-226) that acting in the interests of particular individuals in need is not morally acceptable for a social institution or for an agent working on behalf of a social institution “because that action can keep news organisations from delivering the news”. She raises the issues with which many journalism academics and theorists grapple; to what extent are journalists independent individuals, to what extent are they members of a community bound by social responsibility or communities bound by traditions and a sense of “we-ness”; and to what extent do the value frameworks of the institutions that support journalism – economic and political – influence what is ethical journalism?

Hirst (2001, 68, 1998, 49) sees this later issue as a major problem in conceptualising journalism. He takes a political/economic approach, seeing journalism as a “cultural commodity” (as opposed to economic commodity) produced by workers, whose professional ideology can obstruct journalistic freedom. He argues (Hirst 1998, 49) that the social relations of news production also take on a commodity form, thus rejecting any form of journalistic agency (Oakham 2001, 77). The future of journalism is dependent on journalists rallying to shake off the shackles of professionalism to bring greater class-consciousness to their work and make the news more real. Journalists must move beyond the political and economic institutional value frameworks which see journalistic excellence determined by profits and share values. He calls for a journalistic
“revolution” against the institutional framework of values which sees economic considerations dominate in the evaluation of good and bad journalism. Refocussing journalism’s approach to ethics may help achieve this. He recommends changing the newsroom culture and viewing the newsrooms (via union house committees) as the place of “review and discussion on ethical issues” (Hirst 1997, 71). He calls on the MEAA to support this approach by developing short-courses in ethics for in-house training and democratising the newsroom where editors are elected. This view of journalism by Hirst (1997, 2001) suggests it is a process of social and political control, which reinforces the values of political and economic institutions: a view to which I subscribe because the ideological values of media corporations can influence the interpretation of values. While Hirst’s arguments focus on the production of news and the institutional effect on the news process, I seek to expand this discussion arguing that both news values and ethical values, seen as definitive of journalistic excellence, are vulnerable to being “contaminated” by the institutional ideology of media corporations and self-regulatory bodies, which in the current media climate in Australia, equates value to property.

Hirst (1997, 2001) argues “good journalism” must move outside the value framework of those institutions that support journalism because they skew the focus of journalistic excellence towards economic considerations. While challenging the paradigm of classic liberal conception of the free market, he is accepting that modern society is a social construct of classic liberal theory where free market considerations are the major factors in determining liberty. For journalism to prosper, it must institutionalise as a collective of workers (rather than a collective of money-making professionals) to provide a power balance to the market power of media corporations. Social responsibility, which is the focus of theorists such as the Hutchins Commission and Chadwick, is explained in terms of a “sphere of dissidence” through which journalists break to challenge the economic focus of institutional values. The key problem with Hirst’s theory seems to be in the commitment to one ideological focus: Marxism. To describe the relationship between journalism and society, a theory must look at the dynamics of the communities created by journalism and the individuals performing it. A theory of journalism cannot be articulated in terms of just individuals or
communities, it must take account of the fact that journalism is a process involving various roles, including community creation and community maintenance (communitarian functions). But for journalists to complete the process they must at times reject community values (assuming libertarian roles) to foster a healthy public sphere. The theory of journalism must reflect the fact that for journalism to perform its role properly in modern society, journalists must have freedom to enter and exit communities enabling them to foster a healthy public sphere. This process helps explain Hirst’s “sphere of dissidence”.

Taylor (1995, 183-217) sees the public sphere as the construct of mass media. He (1995, 185) describes it as a “common space in which the members of society are deemed to meet through a variety of media: print, electronic and face-to-face encounters; to discuss matters of common interest; and thus be able to form a common mind about these things”. He sees the public sphere as a central feature of modern society, which has been formed by both the mass media, public political institutions like parliament, and an environment of common understanding framed by conceptions of common good (Taylor 1997, 186-189). Carey (in McKnight 2000) draws a distinction between the mass media and journalism, claiming theorising journalism is not the same as theorising the effects of mass communication. But a theory of journalism cannot ignore the fact the journalism is part of the mass media. Therefore, the effects of the mass media – development of a public sphere, which is reliant on journalism to make reflective decisions about what is public opinion – have to be factored into any conception of journalism. Hirst’s approach engages with the need to distinguish journalism from the institutions that support it, but it does not provide a complete picture of journalism’s role in society. This is probably because Hirst’s theory of journalism focuses on reconciling the relationship between what could be described as the economic and aesthetic functions of journalism.

Sheridan-Burns criticises the market orientation of contemporary journalism and the popular consensus approach described by King. While acknowledging that

12 This discussion will be developed further later in this dissertation.
journalism is a commodity, she (Sheridan-Burns 2001, 36) agrees with Hirst and calls on journalists to go beyond the comfort zone of market driven journalism to “manufacture dissent” by bringing to the public’s attention images and facts that have the potential to afflict those otherwise untouched by them. She diverges from Hirst’s approach by arguing journalists are the autonomous agents who produce a commodity, journalism. The individual journalist is moral and social agent who produces the commodity and therefore he or she possesses a degree of autonomy to overcome the coercion of the economic and political constraints on them. Hirst sees this as occurring through the journalistic collective that is identified by a commitment to notions of excellence beyond economic factors while Sheridan-Burns sees this occurring as a result of the good character of individual journalists who are committed to the production of journalism and not profit. Here, she is espousing a classical liberal viewpoint which reinforces the notion of journalism as an economic institution and the journalist as a noble crusader whose good character converts a commodity into a public good. Hirst’s argument also relies on common values to define the journalism collective. Therefore, their approaches hinge on journalistic virtue. Hirst acknowledges the role of ethics in journalism by legitimising its authority in society and he acknowledges alternatives are needed to the deontological or rule utilitarian approaches adopted by journalism’s self-regulatory bodies. Implicitly, by focusing on the values of journalists, Sheridan-Burns also acknowledges the importance of ethics in legitimising the roles of journalism in modern society. She sees the individual character of journalists as providing the diversity of views to reflect modern society and break through the institutional value framework of the state and the media corporations (Sheridan-Burns 2001, 37).

Oakham (2001, 83) also acknowledges that journalism is inherently an economic activity, but rejects Hirst’s approach, arguing the individual journalist has substantial intellectual freedom to deliver the commodity within his/her own cultural, social and political context. While Hirst argues journalists lack intellectual liberty because of the economic context in which news is produced, Oakham believes journalists have substantial intellectual liberty to decide how they will deliver the commodity. Her ethno-Marxist theory purports to incorporate the journalistic perspective and everyday journalistic practice into a theoretical
do two things: acknowledge the primarily commercial context in which
journalism is practiced and take account of professional ideologies, ways of doing,
ways of making meaning that operate among practitioners of journalism

However, I believe, a theory of journalism also should take account of ideologies
and ways of making meaning within the community as well as the professional
context. Schultz’s findings (1998) suggest that the institutional and structural
autonomy of journalists is increasingly being undermined by a number of factors
including commercial pressures and the professionalisation of journalists. This, in
turn, is alienating them from their public. Oakham sees the community to which
journalists need to be accountable as the profession itself, but does not go on to
identify how that profession might be defined. She also ignores the meaning given
to journalism through the community. If Schultz’s findings are correct and
journalists are becoming alienated from their community, Oakham’s ethno-
Marxist theory will further facilitate their departure. It does acknowledge the
commodification of journalism and encourages incorporation of real practice and
this will possibly illuminate practice, but it could also reinforce the noble
journalist myth, ensuring future practitioners remain aloof from their community.
It certainly maintains the conception of journalism as an institution, albeit an
economic institution, but it fails to adequately explain the ways in which
journalism can successfully deal with the institutional values which frame the
practice of journalism other than relying on the general good character of
journalists themselves. Oakham sees responsibility to the community as an ethical
problem which is not integral to defining journalism, ignoring findings that see
public responsibility as a key or defining role of journalism. While she claims
ethics have no role in defining journalism, she sees the good character of
journalists as distinguishing journalism from other forms of professional
communication. Implicit in her argument is an acknowledgement that autonomy
and independence are key journalistic virtues. Therefore she is espousing a virtue
theory of journalism ethics within a modern liberal framework where intellectual
freedom determines liberty.

Sheridan-Burns, Hirst and Oakham all accept that journalism is a commodity, but
Sheridan Burn and Oakham see the level of social, cultural, political and
economic autonomy exercised by the person delivering the information as distinguishing journalism from other forms of professional communication. The individual must have relative intellectual freedom to “manufacture dissent” (Sheridan-Burns) and interpret his/her role (Oakham). Oakham, Sheridan-Burns and Hirst see the people that do journalism as distinguishing it from other forms of mass communication. Hirst calls for a collective ethical response where journalists legitimise their authority through a framework of values that reflect the common goods of journalism and not the institutions supporting journalism i.e. the state and the media corporations. Hirst acknowledges the role of ethics in reforming journalism but has not acknowledged the key role of journalistic virtue in defining what journalism is. I attempt to redress this shortfall in Hirst’s argument by taking up his point about institutional influence on determining what news is, but also discussing how institutional ideology can contaminate the hallmark values of journalistic excellence by superimposing a neo-liberal construct on their interpretation.

4.2.4 The cultural practice approach

Rather than define what journalism is, Rosen (1993) and Meadows (2001) describe journalism by what journalists do in relation to society. This reflects a functional approach to defining journalism but the outcome is very different to the definition arrived at by King.

Rosen (1993) sees the contemporary journalist as a professional who persuades rather than informs; helps to construct the present rather than merely reflect it; depends on – rather than opposes – the work of other civic agencies; and distinguishes freedom within politics from freedom from politics (Chadwick 1996, 249). Rosen is suggesting journalists should be facilitating public participation and creating a dialogue between the public, the media and the subjects of the news, moving towards a more communitarian conception of journalism but still maintaining the important role of individual freedom. But he sees journalists as engaging with society rather than simply observing it. He acknowledges the relationship between the public and the journalist as central to the job they perform.
Meadows (1998, 23-24; 2001, 40-52), drawing from Adam (1993), sees journalism as a set of cultural practices including making “news judgments, reporting, applying particular linguistic and narrative techniques and interpreting information and meaning”. This permits people to consider what journalism does rather than what it is. Meadows (2001, 52) concludes:

Modern journalism must move beyond its myopic claim to fourth-estate status and its accompanying adversarial watchdog role. While this has played and continues to play a central role in the democratic process, public alienation and the lack of conversation reflected in the work of today’s journalists does little to contribute to a more inclusive conception of culture as a whole process of living.

What journalists do involves the public journalism helped create. A journalist can only be a journalist if he/she is part of that public because the abstract impartial observer cannot foster understanding of a whole process of understanding. This thesis argues a journalist cannot bring social, cultural or economic consciousness to journalism unless he/she engages with the public and interprets what is right and good through the experience derived from this community. Therefore the theories of Oakham, Sheridan-Burns and Hirst are incomplete theories of journalism in that they fail to identify how journalism connects with the public.

Zelizer (1992, 9) addresses this problem by describing journalism as an “interpretative community”, defined by the collective memory it creates by circulating “knowledge among themselves through channels other than the textbooks, training courses and credentialing processes stressed by formalized codes of professionalism”. The collective memory journalism creates helps to define it but it also gives journalism authority to be society’s spokesperson. Therefore, journalists are not dependent on codes or professional organisations to define them as a collective. What they do and how this is accepted by the public determines journalistic legitimacy. I contend in the remainder of this dissertation that how people accept journalistic narratives as the collective memory hinges on the values individuals within that group exhibit. Therefore, people driven by profits, rather than a commitment to pursuing truth, lack authority: they are simply performing technical skills which are only converted to journalistic practice if conducted in a way that reflects the common values seen as hallmarks of
journalistic excellence. It is becoming increasingly apparent that virtues or common values are a defining feature of journalism.

Discussion to this point has not discussed in any detail the role of community in defining journalism but Carey (in McKnight 2000, 21), who sees journalism as a conversation, acknowledges its importance. Journalists are not isolated individuals; they are members of a community (Carey 1997, 8). He acknowledges the problems associated with conceptualising journalism as part of a community and recounts various conceptions of community. His conceptions of communities include participatory communities united by individual participation in politics, economics and all the institutions of social life; community of roots, united by relationships based on gender, race, ethnicity; religious communities, united by shared faith; ecological community, a global community united by shared fate of survival; and a community of one, the independent self (Carey 1997, 3). But he (Carey 1997, 4) rejects these conceptions of community arguing:

The dreams of a community of one or a community of endless participation, a fully private or fully public life, must have a common ending in totalitarianism. An ecological community is too broad and devoid of solidarity to be useful, and a religious community too narrow and exclusive to do much other than damage.

Carey (1997, 4) sees journalism as a part of a “virtual or republican community” which must express and value interdependence without sacrificing individuality; militate against bias of individualism; cultivate respect for the capacity of ordinary people; create institutions, which call forth and nurture these capacities (Carey 1997, 9). Carey’s “republican community” has two dimensions: one social and one political (Carey 1997, 10). “Socially, a republican community is organized around the principle of common social space in which people mingle and become aware of one another as inhabiting a common place.”

The role of journalism is to record the conversations of people within this common space to ensure others who are not present to the conversation might hear it (Carey 1997, 14). The role of journalism is to foster a healthy public sphere, where people can formulate reflective opinions. In this way, journalists provide the collective memory of the public sphere (Zelizer 1992). The community Carey describes is united by a social and political tolerance: a modern liberal conception
of the individual framed by traditional community values. Carey (1997, 2001), Zelizer (1992) and Meadows are espousing post liberal views of journalism which acknowledge the importance of individual self-determination but also highlight social interdependence and the role of journalism in recording those conversations or memories which help create and maintain communities. Carey raises an important point here: the distinction between “political” society, which is the area governed by the state and law, and “civil” society where people interact with each other in voluntary and informal associations (Galligan 2001, 5; Charlesworth 2001, 20-21). The political frames what can and cannot be done in civil society. According to liberal theory, the individual must be free of political interference to make choices and to participate in civil society, resulting in a plurality of ethical positions being tolerated. Therefore, in liberal society, the journalist must be substantially free of government controls to facilitate his/her autonomy. The autonomous journalist is free to determine his/her role in society. But as civil autonomy is not and, according to liberal theory, cannot be legislated by the state, it is open to corruption (Galligan 2001, 6).

Galligan (2001, 6) notes that liberalism is an incomplete human and political doctrine because it fails to acknowledge the fact that the political frames civil society and “good politics should reflect and support the communitarian aspects of human kind” i.e. the various communities within civil society. He warns (2001, 11) that just as tyranny results if the political becomes too pervasive, “anarchy or ineffective government are likely outcomes if diversity is too pronounced and civil society has too much autonomy”. In this sense, distinctions between public and private spheres are becoming blurred. Galligan (2001, 6) supports the need for regulation at both civil and political levels, claiming individuals need good government and a healthy civil society. Journalists, while members of civil society, have voluntarily assumed positions of power and responsibility within it, by being the conduits of information that facilitate public participation at a civil and political level. Technological and social developments mean public participation has changed from interactive access to a mediated form of

13 These issues are discussed in more detail later.
participation. By this I mean that the general public has no real control over the media agenda, as journalists look to themselves to identify what they want (Schultz 1998, 156). In light of these observations, journalists and the media organisations that employ them should be accountable at both these levels to ensure they do not use their moral autonomy to dominate the minorities and weaker organisations. Just as a state-dominated media is unacceptable, so too is an industry completely free of professional or some other form of public accountability: but the type of accountability put in place should encourage ethical journalism. In Australia, journalists have recognised the need for accountability and opted for a system of “professional” self-regulation. Whether that system can give effect to ethical journalism will be considered later.

But for now, I need to discuss the relationship between conceptions of journalism, ideology and the values seen as hallmarks of journalistic excellence. The political influences on the modern media have already been noted, where intellectual property laws have fundamentally changed the nature of journalism. By valorising information, these laws have been instrumental in paving the way for the corporatisation of journalism. Recognising personal ownership of media products and the conception of authorship (Hamilton 2003, 304-306) have seen media practice being transformed from a complex form of common property, which is owned collectively to an individually-created creative commodity capable of ownership. This account recognises the political social environment has changed the nature of journalistic practice from a collective practice where there was little distinction between the producers of information and those who read it to one where legal rights and journalistic practices have created a real inequality between those who produce the news and those who consume it – in other words, an audience-producer barrier (Hamilton 2003). The continued individual focus of journalism has further contributed to the alienation of journalists from their audiences and the external communities in which they operate.

Communitarian theories of journalism attempt to address this problem. Christians (1995, 18-33) sees journalists as members of society bound by “common human good”. Journalism plays a role in helping members of society reconcile the values of the various sub-communities to which they belong and the universal common goods. Journalism helps facilitate understanding between the various communities
to help develop a reflective public opinion and create a global community (Christians 1995, 30; Taylor 1995). Christians concludes:

…the news media as agents of community formation stitch the issues into a universal norm, engrafting ordinary questions about communal life into our human oneness. As a result, cultural diversity does not become tribalism in the extreme, but an opportunity for reaching into the moral imagination and helping communities work constructively from our own backyard and from the bottom up (Christians 1995, 30).

But few academics agree on the conception of community. I have already noted that Carey sees community as a republic defined and maintained by journalistic conversations. Christians sees a universal community formed through recognition of common values. Hodges (1997, 38), however, claims community is broken and this social fragmentation is posing challenges for journalists resulting in them questioning the ideal of the “detached observer”. He claims fracture in society manifests itself in many ways and then relates the example of US journalists paying more attention to Paula Jones than Stephen Beyer. Jones accused President Clinton of sexual misconduct while Beyer was a nominee for appointment to the US Supreme Court (Hodges 1997, 39). He asks (Hodges 1997, 39): “Why was she a bigger item in the news than he? Something is fractured here.” This resonates with Schultz’s findings (1998, 154-156) that the “process of communicating with the public was considered by many of the respondents” to her Media and Democracy study “as an onerous aspect of their work”. She (Schultz 1998, 156) also concluded that “many of the journalists surveyed demonstrated that other news media organisations and journalists had a major impact in their understanding of public opinion and their decisions about what to report and how”. She postulates:

From these results, it is possible to argue that the assertion of professional autonomy by journalists has limited their responsiveness to the public and reduced their capacity to understand public opinion (Schultz 1998, 156).

The question, which remains unanswered by Hodges, is the extent to which the individual focus of journalism has contributed to journalists being alienated from the community. Communitarian conceptions of journalism (like that proposed by Christians) have attempted to address these issues by acknowledging that
journalism is performed in a community of communities and the values of these communities must be taken into account when evaluating ethical journalism.

Merrill (1990, 1992, 1997) sees these theories as a rejection of the notion of journalistic independence and individualism. He sees the communitarian theories of journalism, in particular, as undermining the quality of journalism. He argues (Merrill 1995, 64) that the journalist who “forsakes personal freedom, follows the crowd and does not choose his or her own identity as an individual cannot even be said to exist”. He rejects what he describes as the communitarians’ suggestion that journalism needs to be more responsible, reaffirming journalistic commitment to individualism (Merrill 1995, 64): “The individual is prior to the community, not the other way around; individual perfection is the goal; as individuals get better, society will improve.” Quality journalism means journalistic autonomy and maximum freedom in decision-making and Merrill (1995, 56) concludes: “Such freedom should be permitted even if various individuals use this freedom in ways deemed harmful and irresponsible by others.” This argument has merit as a journalistic ideal but the reality of journalism in Australia makes such ideals impossible. Journalism is not an individual practice: it is performed by a team of individuals. It is a process not a product and integral to that process are journalistic values. I have already noted that Schultz (1998) has found that journalists tend to look to other journalists to determine what news is, rather than take account of public opinion. There is a professional framework of values shaping the type of message being presented to the public. So, how do we determine what is good journalism?

4.2.5 The ideological focus of theories of journalism

This review of literature on contemporary discussions about what is journalism reveals a variety of approaches. But the various accounts of journalism can be classified into an ideological framework according to neo-liberal, classical liberal, modern liberal and communitarian approaches. The neo-liberal approach sees journalism as a commodity that is produced for an audience. Audience and market needs and the need for an unregulated market take priority over individual autonomy of journalists and public good. The classic liberal approach sees the individual journalist as the political and moral agent: the noble journalist and the
institution of journalism delivers a commodity which is the provision of information in the public interest (see Tapsall & Varley 2001; Sheridan-Burns 2001; Chadwick 1996, 1998; Merrill 1990; King 1998). The modern liberal approach sees the journalist as having substantial intellectual freedom to deliver a commodity. Journalism is an economic and social institution whose authority is derived from an implied social contract that sees the “public” transfer to journalists their right to freedom of speech on the condition that journalists exercise those “rights” responsibly and are accountable to the public, not just the profession (Chadwick 1998; Oakham 2001). Post-liberal approaches to theorising journalism see it in terms of a cultural commodity or practice. Hirst (2001) sees it as a cultural commodity produced by grey collar workers. Journalism (the cultural commodity) is an economic conception but the collective journalists are bound by common values, which go beyond the institutional values of the political and economic structures supporting journalism. Journalistic (rather than corporate) values transform the technical skills into journalism. Another modern liberal view of journalism (which tends towards a communitarian conception), sees it as a cultural practice, where journalism is defined by what it does rather than what it is. These theories are moving away from the view of journalism as an economic or political institution to a conception of journalism as helping to create and maintain communities (Meadows, Carey, Zelizer). Journalists are still viewed as independent agents who need to engage with rather than stand back from the various communities across which they operate. The communitarian conception of journalism sees the journalist as an agent of the community, which he or she helps create. Therefore, the journalist’s role is providing information, analysis and access to the public to ensure the public can develop a reflective public opinion on issues, which do not reinforce prejudices and biases (Christians 1995).

The views of Tapsall and Varley, Sheridan-Burns, Merrill, and King all uphold the view of journalism as an institution and the idea of the journalist as an autonomous individual with noble purposes. Merrill sees journalism as a social institution formed through individuals pursuing their own ends. Chadwick endorses the social responsibility theory of journalism which reinforces a conception of the journalist as a member of a community, united by common values and goals – justice and tolerance. However, each individual is free to act in
the manner they please provided they do not unjustifiably harm others (i.e. unjustifiably intrude on the rights of others). Chadwick is espousing a modern liberal view of journalism.

Oakham espouses a liberal position by seeing journalism as an economic institution produced by agents with relative intellectual autonomy. However, her theory does recognise the importance of social context to individual reasoning, reflecting some communitarian qualities. Hirst views journalism as a cultural commodity which coerces journalists: journalism is a means of political, economic and social control. Journalists must unite to claim freedom from these economic constraints. While calling for change, this view accepts that liberal paradigm of free market economy and institutional legitimacy. Others (Meadows 1998, 2001; Zelizer 1992; Carey 1995) claim the conception of journalism as an institution is alienating it from its public. Implicit in Meadows’ theory of journalism as a cultural practice is that journalism is part of a community and that community is not defined just by economic factors, but by geography, traditions, ideals, shared history, trust, co-operation and a feeling of togetherness. His views are nearing communitarian conceptions of journalism which focus on participation and institution building aspects of journalism. Christians espouses a true communitarian conception of journalism which should focus on building a universal community upholding universal values. I have positioned these theories on Table 19.
Table 18: Charting the ideological influences

<table>
<thead>
<tr>
<th>Communitarian</th>
<th>Post-liberal</th>
<th>Modern liberal</th>
<th>Classical liberal</th>
<th>Neo-liberal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christians</td>
<td></td>
<td>Hutchins</td>
<td>Merrill</td>
<td>King</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chadwick (social contract)</td>
<td>Libertarian view of journalism</td>
<td>Tending to classical liberal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tending to classical liberal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carey</td>
<td></td>
<td>Tapsall &amp; Varley</td>
<td>Social responsibility</td>
<td></td>
</tr>
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<td>Zelizer</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Meadows</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Community of individual journalists united by common goals &amp; creators of dialogical communities</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Oakham (intellectual freedom)</td>
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</tr>
<tr>
<td></td>
<td>Sheridan-Burns (professional community of journalists united by common goals and values)</td>
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<tr>
<td></td>
<td>Hirst</td>
<td>Community of workers (accepts market paradigm)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.3 Reconciling these approaches

Table 19 attempts to map the ideological foci of the theories of journalism discussed in this chapter. Despite some blurring of influences, the majority see the individual journalist as meaning the most when it comes to describing what journalism is, reflecting a liberal ideological framework. The majority also
acknowledge that journalists are not isolated individuals. The majority see journalists as members of a community of journalists united by common values and/or goals.

However, I believe a theory of journalism must reflect that at different times and in different contexts journalists can be isolated individuals, members of a professional or organisational community and members of various external communities. An example may help to illustrate my point. Reporting September 11 provides a good example to illustrate that journalism performs classical liberal, modern liberal and communitarian functions. The reports emerging immediately after the event aimed to maintain community values and provide sufficient information to reduce panic, yet enable people to discover enough “truth” to enable the to make decisions about their safety and well-being. The reporting also aided community building across nations (as Americans reached out to the global community for support and understanding). As the events unfolded, the nature of reporting became more investigative, as reporters and commentators analysed the events and started to ask why such events occurred (Kirtley 2001, 78; Poynter 2002). The news process can be depicted as spheres of influence:

Figure 9: Spheres of influence

In the reportage of September 11, journalistic and community values came into conflict, resulting in a process of reconciliation. This conflict saw a refocusing of
the priority of journalistic values to accommodate the common good. Immediately after the event, where people’s lives were in danger (and there was widespread fear) the values of individual journalists and journalists collectively were highly influenced by community values: the common good took priority over the individual good of journalists and media organisations. Reports focused on information that was essential to make decisions about personal safety and to ensure members of the community did not panic. As the immediate dangers subsided the common good remained important to ensure people remained calm. This is promoted through understanding and a form of mediated participation (where people get the opportunity to share experiences, identified by the news media as being newsworthy). In this phase, the values of journalists take less priority than the common good. News and ethical values are interpreted from the community perspective in order to maintain the community rather than polarise it. It is only when the community is safe and relatively stable, that journalistic values take priority, enabling individual journalists and news organisations to challenge particular viewpoints and ultimately seek a diversity of viewpoints that help reconcile conflicts between conflicting values at the individual, community and inter-community levels, thereby contributing to a healthy public sphere.

Journalists did not start questioning the actions of the US in relation to September 11 crisis until some time after the event. This process is even more evident in relation to the Iraq war, where immediate reports dealt with the need to support the Australian troops and gave descriptions of their progress in fighting the enemy. The reports then focused on the safety of the troops and it was not until the war was over that some media started to question the justifications for the war.

These examples illustrate that journalism is a process of conflict and resolution between journalistic and community values. This conflict operates in relation to both news and ethical values. The process, by which these conflicts are resolved, is an intellectual and reflective one. Journalists are a part of a community connected by values and a sense of “we-ness”. This community operates within the broader entity of contemporary Australian society. The community conception of journalism makes sense of the relationship between journalists and the public. But rather than espousing views of public consensus, as suggested by King, journalism should be promoting real understanding and a sense of connectedness
between all sectors of society. The product of ethical journalism is the public sphere. But to completely describe what journalism is, a theory of journalism must explain how journalists and members of external communities reconcile the conflict between journalistic values and the common good.
Chapter 5
Towards a theory of journalism as practice

5.1 Introduction

In the previous chapter, I discussed various theories of journalism. The prevailing view of journalism to emerge from this review of literature reflected a modern liberal perspective where journalists viewed themselves as a collective. Hutchins (1940), Tapsall and Varley (2001), Oakham (2001), Sheridan-Burns (2001), Chadwick (1996) describe journalists in terms of a community of individuals bound by common aims and goals. The common values include a commitment to accuracy, honesty, fairness and respect for the rights of others. The common goal is usually described as a commitment to responsible journalism. Hirst postulates a Marxist perspective in terms of his “sphere of dissidence”, accepting the market constrains of contemporary journalism and viewing journalism in terms of a class struggle between management and workers. His view of journalism positions the craft within a society where the market determines value. Journalists are a collective of workers bound by common goals and values but they are forced to operate within the institutional constraints of a market-oriented society. He identifies the struggle in terms of an ideological conflict.

Carey, Zelizer and Meadows postulate an individually-focused theory of journalism but acknowledge that journalistic practice is embedded in the wider community, suggesting – like Hirst – that when theorising journalism there is a need to synthesise communitarian and liberal perspectives. Merrill, on the other hand, sees journalists as a community of one and any attempts towards collectivity will undermine the role of journalism in society. King sees the market as meaning the most in terms of journalistic output, reflecting a neo-liberal perspective of journalism.

In critiquing these theories, I argued that none have provided a complete description of the modern journalist or the roles of journalism in society because they have tended to focus on effects and tasks rather than fundamental processes.
Those that have attempted to describe journalism’s fundamental processes fail to offer a prescriptive theory, describing what journalism is without offering an explanation of what it should be. I concluded in the last chapter that journalism is community defined by a process of conflict and unity, where values that are seen as meaning the most to journalists conflict with the common good of the community in which they operate. The outcome of journalism is the production of the public sphere, a mediated space where reflective public opinions are formed and reviewed. A diagram may help to explain this process of emerging tradition:

*Figure 10: Public sphere journalism: A process of emerging tradition*

In this chapter, I attempt to redress the shortfall in theorising journalism by explaining that process of unity which results in identification of common opinion. To do this, I rely on the work of Alasdair MacIntyre (1985) and the theory of virtue as it applies to practice. In particular, I rely on Geoff Moore’s interpretation (2002) of the role of virtue theory in business. By viewing journalism as a practice, I am hopeful of explaining how journalism has developed a framework of values independently of the media corporations, government-funded organisations and community co-operatives that support ‘the practice’.
5.2 MacIntyre’s modern virtue ethics theory

Until recently, experts in business ethics have rejected MacIntyre’s modern virtue approach to ethics, claiming his views are “anti-modernity”, “anti-business” and “anti-managerial” (Dobson 1997, 128; Moore 2002, 19). Dobson is highly critical of what he sees as an idealised approach to ethics, suggesting that a virtuous firm would “rapidly perish in an open competitive market” (Dobson 1996, 227; Dobson 1997; Moore 2002, 20). The focus of organisational and business ethics has been on stakeholders, suggesting discourse in these areas has also focused on effects and tasks rather than analysing the fundamental purpose of these structures within society. However, Moore (2002, 19) cautions that the views of MacIntyre may have been prematurely abandoned and he goes on to explore further the practice of institution distinction drawn by MacIntyre in terms of its application to business.

So what is MacIntyre’s modern theory of virtue and how does it apply to journalism?

MacIntyre (1985, 1994; Horton & Mendus 1994, 13) rejects the liberal explanation of society, claiming it is only one among many modes of enquiry. He articulates an alternative view of an individual’s relationship with society that emphasises moral tradition. His approach has been categorised as a communitarian philosophy. Part of that theory relates to how “virtues” develop within practices and this aspect of his work is relevant to this study.

In postulating a moral theory of modernity, MacIntyre challenges the liberal conception of self, arguing the individual is (at least partially) socially constituted through a process he describes as the narrative order of a single life (MacIntyre 1985, 187; Horton & Mendus 1994, 8, 9). MacIntyre (1985, 215) explains this concept in more detail:

We live out our lives, both individually and in our relationships with each other, in light of certain conceptions of a possible shared future, a future in which certain possibilities beckon us forward and others repel us, some seem already foreclosed and other perhaps inevitable. There is no present which is not informed by some image of some future and an image of the future which always presents itself is the form of a telos – or a variety of ends or goals – towards which we are either moving
or failing to move in the present. Unpredictability and teleology therefore co-exist as part of our lives; like characters in a fictional narrative we do not know what will happen next, but nonetheless our lives have a certain form which projects itself towards our future. Thus the narratives that we live out have both an unpredictable and partially teleological character. If the narrative of our individual and social lives is to continue intelligibly – and either type of narrative may lapse into unintelligibility – it is always both the case that there are constraints on how the story can continue and that within those constraints there are indefinitely many ways that it can continue.

In his description of the narrative self, MacIntyre is attempting to address the shortfalls of liberalism which he sees as a tradition derived from a set of agreements to disagree (1994, 292). As noted earlier, Macintyre rejects the liberal notion of the individual self abstracted from the social self. While recognising that individuals ultimately choose their future, MacIntyre believes an individual’s choice is limited by the social context in which he or she is making those choices. He links morality to context, in that morality (which MacIntyre sees as the exercise of virtues) is internal to social practices. MacIntyre attributes a specific meaning to practice. He defines it as a:

[As a] coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended (Macintyre 1985, 187).

Practices are communities within the wider social environment where common goods are identified in order to achieve excellence in that practice. Liedtka (1998 4; Arjoon 2000, 4) identifies four characteristics that are central to MacIntyre’s definition of practice:

- co-operative human activity;
- intrinsic goods, or outcomes, related to the performance of the activity, that go beyond profit;
- striving towards excellence, both in product and performance; and
• a sense of ongoing transformation of the goals of practice (Arjoon 2000, 4).

This reveals practice is more than a set of technical skills directed towards a unified purpose of producing a commodity (Macintyre 1985, 193). There must be “a certain kind of relationship between those who participate in it” (MacIntyre 1985, 191). This kind of relationship requires a commitment to common goods that ensure excellence within that practice. Excellence is achieved by exercising virtues of character and intellect.

Virtues are the “goods by reference to which…we define our relationships to those other people with whom we share the kind of purpose and standards which inform practices” (MacIntyre 1985, 193). While the virtues are the means by which excellence is achieved in practice, they also are partially definitive of the practice: they are an end in themselves but also a means to an end – excellence.

MacIntyre states:

A virtue is an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods (Macintyre 1985, 191).

Practice is the first stage of the development of common goods because individuals are partially constituted by the practice/s within which they operate. Tensions will emerge within practices and to resolve those tensions, individuals must exercise the virtues in light of tradition. Leeper and Leeper explain (2001, 2): “The tradition of virtues established by the practice sustains the practice itself. These practices must harmonise with one another to form a community. This requires the idea of an ultimate good”. Whilst the use of the term practice to describe the components of the whole is confusing, it seems Leeper and Leeper are affirming the view that common goods within practice are a dynamic and

14 Sanders (2003) sees virtue theory as being teleological because virtue is an end in itself. I argue however, that virtue theory is a category in its own right, displaying characteristics of both deontological and teleological theories i.e. being and end in itself and a means to an end (excellence).
living concept. Common goods are identified or agreed upon through a process of conflict and unity arising out of the social context in which an individual finds him or her self. In the journalistic context, this involves a process of discord and unity between journalists, the profession of journalism and the community in which journalism operates, which will reveal the internal goods of journalism. According to MacIntyre (1985, 187) the resolution of this conflict involves the exercise of virtues of intellect and character in light of tradition, which can be simply described as the acquired habits of reflective practice (MacIntyre 1985, 187). In simple terms, this means an individual must know what he or she is doing and why he or she is doing it. Mulhall and Swift explain tradition in this way:

A tradition is constituted by a set of practices and is a mode of understanding their importance and worth; it is the medium by which such practices are shaped and transmitted across generations. Traditions may be primarily religious or moral...economic (for example a particular craft or profession, trade union or manufacturer), aesthetic (for example modes of literature or painting) or geographical (for example crystallizing around the history and culture of a particular house, village or region) (Horton & Mendus 1994, 11).

MacIntyre’s conception of tradition can be described as a process of reflective habit (Hursthouse 1999, 123; Sanders 2003, 36), which means challenging views where appropriate and having the appropriate feeling and attitude when acting (Hursthouse 999, 125; Sanders 2003, 36). It is important to stress that MacIntyre’s view of tradition is a dynamic or living concept involving critical reflection on both the traditions of that practice and other possibly conflicting practices (MacIntyre 1985; Horton & Mendus 1994, 12). As Liedtka (1998, 4) notes, a practice includes a sense of “ongoing extension and transformation of the goals of practice”. Therefore, the “tradition” or ways of doing within the practice are not fixed. Tradition evolves through a process of conflict and unity – both internally and externally.

To date, I have described a theory which identifies the increasing “widening circles” of socialisation which constitute MacIntyre’s moral theory. Horton and Mendus explain (1994, 11) the narrative of an individual’s life comes first. But, to be fully understood, it cannot be considered in isolation. It must be understood is the context of various practices, which are partially defined by virtues. The virtues
of particular practices are sustained through dynamic traditions which provide the “resources with which the individual may pursue his or her quest for the good”. MacIntyre himself (1985, 186, 187) sees the narrative self derived from the social practices in which an individual finds him or herself. The point MacIntyre is making relates to the question of identity. He sees individual identity being derived from the social context and Horton and Mendus are not challenging this view.

The focus of MacIntyre’s modern theory of virtue is to present a theory of ethics for modernity. He rejects the individually abstracted and procedurally-focused approach to ethics, which has emerged as a result of the Enlightenment project, arguing a moral theory of modernity needs to focus on virtue and its relationship to practice and the common good. Goods internal to practice are achieved through the pursuit of excellence by exercising virtues of both character and intellect. Virtues of character are derived through regular practice (or reflective habit) and intellectual virtues are derived through learning. Both types of virtue are needed to achieve excellence but the virtues of character take priority. However, it is impossible to be of virtuous character without practical wisdom. The virtues of character and intellect derive from what Aristotle describes as the cardinal virtues: prudence or practical wisdom; courage or fortitude; self-mastery or temperance; and justice or fairness (Arjoon 2000, 5). Arjoon (2002, 5) explains the cardinal virtues in more detail:

Courage is the ability to face and to overcome difficult situations. It is the power to act even when we are afraid. Temperance or self-mastery is the ability to have control over our tendencies to laziness, complacency and reluctance to fulfill our responsibility. …Justice describes a situation where one constantly gives others what they are due so that they can fulfill their duties and exercise their rights, and at the same time, one also tries to see that others do likewise. Prudence can be equated to good judgment and right reasoning about people.

Prudence or practical wisdom is seen as the most important because it is needed in order to practice the other virtues (Aristotle; Piper 1996; MacIntyre 1985; Arjoon 2002, 5). This discussion of virtue will be considered in more detail in later chapters, but for now, it is important to highlight that the relationship between virtue and practice enable individuals to identify the common good/s. The goods
internal to practice are understood only when considered in light of the moral
tradition of the practice, the social context in which the practice is exercised (i.e.
the moral tradition of other practices) and the social context of the individual self-
their narrative (Macintyre 1994, 286). Whilst acknowledging the cardinal virtues,
MacIntyre (1994, 181-203, 284) also accepts the goods emerging within a practice
are dynamic concepts that depend on the social context and the individual
involved in the practice. He concludes:

No quality is to be accounted a virtue except in respect of its being such as to enable
the achievement of three kinds of goods: those internal to practices, those which are
the goods of an individual life and those which are the goods of the community”
(1994, 284)

This means internal goods within practices cannot be prescribed ad infinitum. Internal
goods that give rise to excellence are dynamic concepts wholly dependent
on the context in which they occur. This understanding of morality and excellence
within practice has immense implications for journalistic self-regulation, particularly
those organisations which rely on a precedent-driven approach to
resolving disputes like the Australian Press Council.

This view of internal goods has given rise to several critics rejecting MacIntyre’s
theory of morality as purely relativistic. Taylor (1994,16-43; MacIntyre 1994,
286-290) argues there are common goods internal to practice and there are
common goods that transcend all practices. However, MacIntyre (1994, 286-88;
Horton & Mendus 12) sees the dynamic nature and interaction of rival traditions
as a way of avoiding relativism. Critical reflection or the exercise of intellectual
virtues enables people within practices to identify common goods even where
there are conflicts between internal and what Taylor describes as transcendental
goods. MacIntyre sees the process of integrating internal and external goods as a
practice in its own right (1994, 288).

This notion of a dynamic tradition also takes account of the fact that practices
cannot exist by themselves. Macintyre (1985, 194) distinguishes between
practices and institutions in this way:

Institutions are characteristically and necessarily concerned with external goods.
They are involved in acquiring money and other material goods; they are structured
in terms of power and status, and they distribute money, power and status as rewards.

Moore (2002, 21) depicts the practice/institution distinction diagrammatically:

*Figure 11: Relationship between practices and institutions*

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MacIntyre (1985, 194) acknowledges that practices cannot survive without institutional support, but he stresses that questions of excellence in practice must be determined from the perspective of internal goods. He notes:

> The ideals and the creativity of the practice are always vulnerable to the acquisitiveness of the institution, in which the cooperative care for common goods of the practice is always vulnerable to the competitiveness of the institution (1985, 194).

This aspect of his theory has been harshly criticised in business circles, with several critics dismissing it as purely idealistic (Dobson 1997, Brewer 1997). But in response to his critics MacIntyre (1994, 284) explains the distinction in terms of a productive craft of fishing.

> The aim internal to such productive crafts, when they are in good order, is never only to catch fish or milk cows or to build houses. It is to do so in a manner consonant with the excellences of the craft, so that not only is there a good product, but the craftsperson is perfected through and in her or his activity. This is what
Where a practice is evaluated from institutional values such as profit and fame, the internal goods of that craft are weakened. Procedural reinforcement of external virtues to define excellence can ultimately lead to the destruction of that practice. This is not to say the external goods of institutions and the wider society are not influential in identifying the common good. They are factors that are taken into account in reflective practice and the formation of a moral tradition within practice. This discussion reveals a fairly complex process by which MacIntyre defines and explains practice. In light of these criteria, Macintyre claims bricklaying is not a practice, but architecture is (1985, 187). I suggest therefore that news gathering, reporting and subbing stories are not practices; but journalism is.

### 5.3 Journalism as a practice

Before going on to discuss the tensions between internal and external goods in the journalistic context, I need to explain further why I have concluded that journalism is a practice. To do this, I will relate journalism to the four characteristics identified by Liedtka (1998, 4; Arjoon 2000, 4) as characterising practice: co-operative human activity; intrinsic goods or outcomes related to the performance of the activity itself; striving towards excellence both in product and performance; and a sense of ongoing extension and transformation of the goals of that practice.

Based on the discussion in previous chapters, there is little doubt that journalism is a co-operative human activity, both in terms of how it is done, the effects it has on society and its fundamental purposes. Various technical skills must be combined to produce journalism. These technical skills are frequently performed by different individuals. The product produced has been variously described including news, information, stories and entertainment. I have suggested the product of journalism involves an even greater level of human co-operation, as journalism plays an integral role in creating and maintaining the public sphere. Co-operation exists between journalists – individually and collectively as a profession – and the community in which they operate.
It has also been observed in previous (and future) chapters that there are a set of values – relating to both outcome and performance – seen as defining journalism and defining excellence in journalism. These values go beyond profit and the institutional interests of corporations and shareholders. Journalism is defined by some as a commitment to these values, which are seen as the hallmarks of journalistic excellence in terms of product and performance. The fact that some of these values are prescribed in codes does not detract from my argument that journalism is a practice rather than part of a corporate institution. This reflects what MacIntyre (1994, 286) sees as a feature of the culture of modernity where practices are “marginalised” and their significance significantly obscured and distorted through the dominance of external goods. The conception of journalism as a product or commodity – even in the form of labour as described by Hirst – blurs the distinction between the media corporations that support the practice of journalism and the practice of journalism, thus legitimising the use of external goods to evaluate journalistic excellence. This view of journalism also blurs journalism with two other practices hosted by media corporations. They are the practices of media business and advertising, which will be discussed in more detail later.

Several journalism theorists (Meadows 2001; Carey 1997; Zelizer 1992) see the notion of excellence in journalism as an ongoing transformation of the goals of practice. This is stated in terms of the relationship with the community and the conception of journalism as an interactive or mediated community. I suggest that the process of journalism and the process of achieving excellence in journalism derives from a state of reflection as journalists reconcile tensions between individual, professional and community goods to identify a common good that relates to the individual journalist, the profession of journalism and the community it serves. This state of reflection is developed through the pursuit of journalistic virtues.

Many journalism theorists see common values and ways of doing journalism as definitive of it. But unless those theorists distinguish between the internal goods of journalism and the external goods of the institution, journalistic values are vulnerable. As I noted previously, many journalism academics conflate the two, accepting the economic paradigm in which journalism is produced and rendering
journalism a commodity or product. However, MacIntyre cautions “the ability of a practice to retain its integrity will depend on the way in which virtues can be and are exercised in sustaining the institutional forms which are the social bearers of the practice”. He continues:

> The integrity of a practice causally requires the exercise of the virtue by at least some of the individuals who embody it in their activities (at least some of the media corporations); and conversely the corruption of institutions is always in part at least an effect of the vices (MacIntyre 1985, 195).

He warns that the possession of virtues is essential to internal goods but that the possession of these virtues may undermine the ability of media corporations to achieve the external goods of profits. He reminds us that if the pursuit of external goods becomes dominant, “the concept of virtues may suffer first attrition and then perhaps something near complete effacement, although simulacra might abound” (Macintyre 1985, 196). Here he is identifying the constant conflict which emerges in journalism: the tension between corporate and journalistic values. While the internal conflict between journalists, their profession and the community in which they operate is part of the process towards identifying the internal goods, the conflict between journalists and the institutions that support them gives rise to a potentially destructive conflict. Journalism has attempted to preserve the values seen as the hallmarks of excellence through a complex process of self regulation, which has been described in some detail in Chapter 1. As Arjoon (2000, 7) notes, “individuals, corporations and society are not separate entities like atoms that collide with each other”. They are part of the whole and individuals derive identity from the context in which they interrelate. MacIntyre (1994, 288) sees the integration of internal and external goods into individual and communal lives as a practice in its own right.

Herein lies a problem for journalism and journalism self-regulation. Journalism is just one of the practices hosted by media corporations (or media institutions). It is obvious that commercial media organisations host at least three practices: journalism, business and advertising. But even media institutions, such as the ABC, SBS and community news services must have funding to support journalism, therefore they face the same internal conflicts between the competing practices of journalism, business and advertising or sponsorship. The difference
lies in the type of institution that hosts them i.e. the corporate structures supporting these practices. In the case of SBS and ABC, the major institutional stakeholders are the state and the public whereas with commercial organisations the major stakeholders are shareholders. Before moving on to discuss the tension between internal and external goods, I will outline why business and advertising are practices.\textsuperscript{15}

5.4 Advertising as practice

Advertising is a paid form of professional communication where the person buying the advertisement has control over content. Advertising generates income directly for media organisations where journalism does not. Income from journalism is derived because the audience/s it produces provides a “market” which media organisations can sell to advertisers. But it has already been noted the aim of journalism is not the production of audiences; it is the provision of information, analysis, criticism and debate to ensure a healthy public sphere – the non-localised space where the public can form a common opinion through mediated dialogues (Thomson 1995, 244). In pursuing this goal, the individual journalist is perfected by aiming to deliver information and other services in a manner that reflects the common values of accuracy, honesty, independence, fairness and respecting the rights of others. This dependent relationship between advertising and journalism appears to challenge my argument that journalism is a practice in its own right. However, when applying MacIntyre’s schema, I argue journalism, advertising and media business are separate practices because they are not fully understandable if described solely in terms of the technical and economic means to an end.

\textsuperscript{15} Given the focus of this theory is on journalism as practice, the discussion about business and advertising as practice will be relatively brief. But it is important to identify why advertising and business are separate practices in their own right.
Looking at advertising first, it is a co-operative human activity in that the technical skills required in advertising are performed by a collective of people, who have a common aim – producing a product that satisfies the brief provided by the client. It requires a relationship of trust and mutual dependence between the advertisers and the people producing advertising. Advertising (as a collective) has identified a set of intrinsic goods – or outcomes, related to the performance of the activity beyond profit and fame. While certainly it involves selling products and generating income, this is the role of the institution that supports advertising. The primary focus of people involved in advertising is “getting their client’s message across” by employing a range of skills within a particular ethical framework. This involves reference to a specialist body of knowledge regarding how messages are received by audiences, how clients can get their message across most effectively and the most appropriate medium by which to communicate this message. The profession of advertising recognises a set of values which underpin excellence and prescribes a way of doing advertising both in terms of production and outcome. One problem with this argument is that those ethical values have been shaped by a prescriptive framework supported by a variety of laws. However, moves towards self-regulation within the Australian advertising industry suggests that advertisers are now bound by a common view on what is excellence in advertising. These values describe a notion of social responsibility specifically requiring advertising agents and professionals to be legal, honest and truthful; respect clients, competitors and the rights of others in terms of privacy, age, human safety and not discriminating or inciting fear. Advertising should not exploit the reputations of others and should comply with legal requirements in terms of labelling and guarantees. The points I raise about the practices within modernity in relation to journalism are also applicable to advertising. The prescriptive process of ethics (which may reflect the external goods of profit making) is a product of the culture of modernity, which must be addressed when looking the ability of self-regulatory processes to encourage ethical practitioners. This point will be discussed in more detail later. Finally, the ways of doing (professional habits) within advertising are constantly being refined in light of professional excellence (in terms of production and outcome). Ethical values (albeit those prescribed in codes) are being re-evaluated in light of the profession’s relationship with clients and audiences.
Therefore, the common goals of the profession are being extended and transformed.

Based on this analysis, I argue advertising is a practice independent of the media institutions that support it. In the journalistic context, journalism and advertising are two practices hosted within media corporations. Each of these practices has their own moral traditions, which at times, will be in conflict with the other.

5.5 Media business as practice

However, there is a third practice within media institutions that has its own set of internal goods. That is the practice of business. MacIntyre’s schema has constantly been rejected by business theorists because of his claim that management is not a practice. Others see business as part of the corporation that supports specific practices such as journalism and advertising.

To analyse this point, I first need to articulate what business is. Business is commonly described as “one’s occupation, profession or trade; the purchase and sale of goods in an attempt to make profit; a person, partnership or enterprise engaged in this concern (Delbridge et al 1985, 267). I take a different view of media business. The aim of media business is to develop audiences and integrate the internals goods of media practices with the external goods of the media corporation. Some (Goh 2003) argue that creating audiences is the role of journalism. I am unconvinced by Goh’s argument, which I see as conflating roles of corporate institutions and journalism. Journalism and advertising as practices help build audiences, but the media business expands on the effects of these two practices by utilising a body of knowledge that involves strategic planning, promotion, programming (in broadcast media) to develop audiences. Other functions of media businesses include financial control, marketing, provision and maintenance of computer systems and software and accounting among other functions. The key role of business is to integrate these skills into “a holistic activity” (Moore 2002, 24), which includes reconciling conflicts between internal goods of media practices and the external goods of the media corporation.

The distinction I seek to draw is a difficult one. MacIntyre has stated that “employment can only be a feature of institutions since institutions determine and
enforce the division of labour and employment policies” (Moore 2002, 24). Moore (2002, 24) sees employment and management as features of certain types of institutions or organisations. In the media context management and employment are features of the media corporations. Moore rejects Brewer’s argument (1997) that management is a practice in its own right, arguing she has inadvertently contradicted her own argument by viewing business as the socially cooperative activity that falls within Macintyre’s definition of practice. According to Moore’s distinction, excellence in management is measured by external goods such as profit and power.

I agree with Moore (2002) that the business of media organisations can be viewed as a practice independent of the corporate structure that supports it because it has common goals: production of audiences and the integration of internal and external goods into the individual and communal lives. The manner in which audiences are created or developed involves a co-operative human activity encompassing a range of technical skills. There are intrinsic goods that go beyond profit and fame in that business must accord with best practice (despite effect on profit). The notion of business best practice requires pursuit of a set of internal procedures that ensure excellence in production and pursuit of excellence in terms of product (efficient and transparent business). Best practice ensures procedures are reviewed and revised according to changing relationships between clients, governments and the organisation, suggesting there is a sense of ongoing transformation of the goals of practice.

Moore claims (2002, 22) “Macintyre’s schema can be applied directly to business as a practice and to corporations as institutions”. Moore justifies his position by reference to MacIntyre’s clarification of the notion of practice in productive practices (Moore 2002, 23). As you will recall, Macintyre refers to productive crafts such as “farming and fishing, architecture and construction” stating:

The aims internal to such productive crafts, when they are in good order, is never only to catch fish or to produce beef or milk or to build houses. It is to do so in a manner consonant with the excellences of the craft, so that there is not only a good product, but the crafts-person is perfected through and in her or his activity (Macintyre 1994, 284; Moore 2002, 23).
Moore (2002, 23) sees business as a productive craft because it should aim to carry out its activities in a way that promotes excellence: the focus should be on the internal goods (virtues) of business rather than the external goods such as profits. Moore claims (2002, 25) that MacIntyre’s schema helps to explain a number of ethical problems facing businesses which are supported by corporations. It explains the “ethical schizophrenia” which results in tensions between personal values and the external values of corporation such as profits. He sees the second consequence of the practice-institution distinction “is that it helps to explain the claims that are made in respect of the market as a source of virtues” because “business, as with any practice, rewards those who possess and exercise the virtue” (Moore 2002, 25). He claims the craftsperson “is perfected through and in her or his activity” (Moore 2002, 25, 26; Macintyre 1994, 285).

My final argument to support the claim of business as a practice relies on MacIntyre’s view that the work of “integrating” internal and external goods has the structure of practice (1994, 288). Media business performs this work in terms of integrating the internal goods of the practices of journalism and advertising as well as the external goods of the corporation.

It is important to point out at this point that journalism also relies on the practice of self-regulation to integrate internal and external goods. The institutions that host the practice of journalistic self-regulation are the bodies set up to oversee the codes. As Fullinwinder’s template indicates, each self-regulatory institution has a particular ideological focus. The media corporations reflect managerial and market driven ideologies. Therefore part of the practice of integrating internal and external goods is managing ideological conflict as well as the conflicts between internal and external goods. If we accept the arguments that business is a practice in its own right, it becomes obvious that commercial media organisations host three-and-a-half practices; but there are intersections between the practices of business and self-regulation. Media business is concerned with internal conflicts whereas self-regulation is concerned with external conflicts emerging from the wider public. The relationship between these practices and the institution that support them can be depicted in this way:
This diagram, which depicts the commercial media corporation, highlights the inter-relationship between media practices of business, journalism, advertising and journalistic self-regulation. There are areas where all three internal practices intersect, but institutional self-regulation rarely embraces the complete range of internal conflict because it does not embrace the practice of advertising. Thus professional self-regulation usually can only embrace an ethical problem within media business from a partial perspective because it does not take account of all of the internal conflicts.

The eclipses are the areas of conflict identified by MacIntyre, Moore and Sayers when describing the dynamic nature of moral traditions within practices. The conflicts that emerge – internally within practice and externally with other practices and institutional goods – are integral to the formation of the common good. As Sayers notes (1999, 153) “what we share as members of modern society is not a single and unequivocal set of understandings, but rather an open and developing tradition in which there is dialogue, debate and disagreement”. Therefore “critical notions” of identity and community are essential for the modern self (Sayers 1999, 154). He concludes that “the attempt to form identity
by detaching oneself from one’s outward roles and relations is not satisfactory. For the self (whether journalist or member of society) is essentially social” (1999, 156). However, he warns that “compliance with all the demands made upon us” is not the way to true identity: “We must resist and reject some of them and develop strength to become, outwardly and publicly, a determinative and distinctive presence of our own in the roles and relations in which we are involved”. Sayers views the modern self as a “relatively autonomous self …that seeks to construct a community in which it can develop and be realised”. The individual’s narrative and view of common good must be developed in light of the social context in which he/she is operating. His view of autonomy takes account of the fact that the individual’s identity is at least partially defined by the social context in which he/she finds him or her self.

I argue MacIntyre’s view of practice offers a complete theory of journalism in that it describes what journalism should be: a practice defined by internal goods which give rise to excellence in practice. It also describes what journalism is: a practice marginalised by the culture of modernity where external goods (if used to evaluate journalism) corrupt excellence in practice. Finally, it describes how journalism is done: by pursuing the internal goods identified through the exercise of the virtue. Internal goods must take account of the social context of practice through a process of reflection. This requires an understanding of traditions within the practice of journalism and competing practices. This discussion highlights the dynamic nature of journalism both internally and externally and also reveals fundamental flaws in Australia’s approach to self-regulation, which I will discuss further in the ensuing chapters.

5.6 Conclusion

This discussion provides an alternative view of journalism that challenges the modern liberal paradigm which has dominated conceptions of journalism to date, thus highlighting the problems with taking a functional approach that presumes a liberal paradigm. A view of journalism in terms of MacIntyre’s conception of practice helps us to understand the process of conflicts facing journalism and the potential threats it faces if external goods are used to evaluate excellence. MacIntyre’s practice/institution schema aids understanding of the role of
journalism in society (in terms of what it is, what it should be and how it is done) and helps identify the key ethical issues facing journalism: the ethical tension between corporate, business and journalistic values. It also helps illustrate that questioning the extent to which the ethical journalist is an isolated individual or member of a wider society may distract us from the most crucial ethical issues facing journalistic practice: the vulnerability of journalism ethics to institutional values. This vulnerability derives from the public sphere process. Where a particular dialogue dominates the public sphere, it is given value. When journalists accept that they are simply a commodity provided by media corporations, that dialogue adds to the dominance of neo-liberal views of journalism. Journalism gives legitimacy to the market views of media corporations, which in turn, affects how people perceive themselves individually. The dominant voice gains legitimacy as a social norm.

In the next chapter, I will argue the practice of self-regulation in Australia is flawed because its view of ethics is dominated by the modern liberal conception of morality. This involves conflicts at two levels. The first problem involves an ideological conflict between the various institutions that host journalistic self-regulation and second is the way in which deontological and rule utilitarian conceptions of ethics have dominated discussion of journalism ethics.
Chapter 6

Journalism self-regulation: Mapping the ideological conflict

6.1 Introduction

It was revealed in previous chapters, that many journalism academics and commentators see defining journalism as the starting point for developing a theory of journalism. They use the tasks performed by journalists as a way of defining what they do. In Chapter 3, I described this method of theorising journalism as a functional approach because it sees the starting point and focus of journalism as describing journalistic functions. I also noted in Chapter 3 that preambles to a number of the journalism codes (considered in this study) also adopt this approach. The Fullinwinder template, outlined in Chapter 1, attributes another function to the preamble to codes – describing the ideological focus of a code. If the aim of self-regulation of journalism is to encourage ethical journalism, this study maintains reform must start with identifying the ideological foci of the self regulatory bodies.

This is an aspect of ethical reform with which many reviews of journalism ethics and self-regulation have failed to engage. I attempt to redress this shortfall by examining a sample of Australian journalism codes and distilling their ideological stances in terms of the conception of journalism and their view of journalism’s relationship with society. To do this, I consider how the self-regulatory bodies have operationalised the common goals and values prescribed in the codes they oversee. I will use this discussion to highlight the ideological conflict facing organisations seeking to encourage ethical journalism. It will attempt to identify the problems emerging from the various conceptions of journalism, arguing that the theory of journalism as practice, as articulated earlier, offers a view of journalism that will help identify the approaches to ethics needed to be taken by self-regulatory bodies in order to encourage ethical journalism.
To identify the ideological foci of the sample of journalism codes considered in this study, I will analyse the documents (or parts of documents) that describe what journalism is. Some codes do not attempt to define journalism. In these situations, I will examine literature relating to the various aims of the code in order to distil the institutional ideology of the self-regulatory body. This study is using a sample of journalism codes which have been selected to represent a cross-section of Australian journalism. They are the Media Entertainment Arts Alliance (AJA) Code of Ethics, the Australian Press Council Principles; the CTVA and CRA codes as they relate to news and current affairs; the ABC Code of Ethics and Charter and The Age Code of Conduct. First I will examine the MEAA code of ethics because it relates to individual journalists rather than the organisations for which they work.

6.2 MEAA: A modern liberal view of journalism

The Media Entertainment Arts Alliance (AJA) Code of Ethics defines journalism by looking at the tasks it performs and the values they reflect, indicating that journalism is not seen as just a set of skills that are used to produce a product. The skills should be performed in a particular way. The code states:

> Respect for truth and the public’s right to information are fundamental principles of journalism. Journalists describe society to itself. They convey information, ideas and opinions, a privileged role. They search, disclose, record, question, entertain, suggest and remember. They inform citizens and animate democracy. They give a practical form to freedom of expression. Many journalists work in private enterprise, but all have these public responsibilities. They scrutinise power, but also exercise it, and should be accountable. Accountability engenders trust. Without trust, journalists do not fulfil their public responsibilities (MEAA (AJA) 1999, 1).

The code sets out common goals, common values and the particular technical skills seen as definitive of journalism. The common goals are to perform responsible journalism and to be accountable. The code suggests that journalists bound by this code are accountable to the public. But, as I have argued, it is apparent that journalists bound by this code are being held accountable to their profession (alone). It has only been in recent years that a lay person has been introduced to the adjudication panel. Given that only one lay person sits on a three-member panel, professional views of journalism are certain to predominate.
This is seen as acceptable because of the implied social contract between the public and journalism. The preamble acknowledges the “public’s right to know” relying on implicit contractarian arguments to legitimise journalists’ authority to report and provide information to society. It then identifies the key values which underpin journalism as honesty, fairness, independence, respect for the rights of others. The preamble binds individual journalists to these common values and common goals of responsible and accountable journalism.

The MEAA code has operationalised these values in a deontological framework. The code is seen as prescribing what is ethical and the process put in place to evaluate whether a journalist has complied with the code is legalistic. Characteristics of these processes include a written complaint identifying the clauses of code that have been breached. The complaint is heard by a judiciary committee, which investigates the complaint and determines whether the journalist is “guilty” or not guilty of breaching the code (MEAA 1999). For legal reasons, the panel does not publish reasons for its findings. Breaches of the code are viewed in light of the over-arching guidance clause which cautions that: “Basic values often need interpretation and sometimes come in conflict. Ethical decision-making requires conscientious decision-making in context. Only substantial advancement of the public interest or risk of substantial harm to people allows any standards to be overridden” (MEAA 1999). This suggests a rule utilitarian approach to ethics when resolving conflicts of duty.

The MEAA binds individual journalists (who are members of the AJA section of the union), indicating it views journalists as being responsible for their own actions within the institutional environment in which they operate. This suggests a conception of journalists as autonomous agents within the professional context, whereby the union to which journalists belong corrects the power imbalance between the individual journalists and their media corporation employer. However, the review committee (1997, 1), whose recommendations saw the implementation of the revised code in 1999, noted that journalists are not “autonomous professionals”. The review committee (1997, 2) noted further that it is “managements which embed conflicts of interest into the work practices of a media organisation, so deeply in some cases it seems no ethical issue registers”. This comment acknowledges the ideological conflict that exists between
journalism and the media organisations that employ journalists, but the conception
of journalism, that still relies on implied rights fails to deal with this conflict. If
journalists receive “rights” as a result of the implied contract with the public, then
the media organisations that employ journalists are implicitly part of that contract
as the employer stakeholder. In fact, the APC views the employer as the
institution to which the public delegates their rights. While the MEAA has noted
the tensions between journalists and employers, its reliance on social contract to
define the rights of journalists fails to fully explain these tensions. According to
social contract theory, the “rights” of individual journalists cannot be divorced
from the rights of the organisation that employs them, installing journalism
(employers and employees) as a social institution. The question remains: how are
the values seen as hallmarks of excellence in journalism reconciled with the
institutional values of the media corporation that employs journalists within that
institution? In its review of the code, the MEAA chose to divorce itself from that
issue, arguing that it would implement a code that reflected standards journalists
could meet and thereby highlight the inadequacies of others.

The code is a tool for redressing part of the ideological gap between journalists
and their employers. The MEAA uses the collective power of individual
journalists who consent (by being members of the union) to forfeiting some of
their autonomy by agreeing to pursue their roles as journalists in a responsible
way. Any action taken by a member that does not meet the union’s definition of
responsible journalism means the individual journalist can face penalties imposed
by the union. This suggests that the individual journalist is a member of a
professional community bound by a commitment to responsible journalism as
defined by the code, reflecting a modern liberal conception of journalism. The
result is not to ensure ethical journalism. In fact the review committee noted that
its revised code would achieve two things for Australian journalists: add to the
credibility and trust of journalism and highlight deficiencies in the approaches to
self-regulation taken by others in the media (MEAA 1997, 3).

This discussion reveals that the MEAA views on what constitutes good and bad
journalism are framed by a modern liberal view of social responsibility: journalists
should surrender some autonomy to their professional body in order to
achieve the greatest good for the public through a commitment to a set of codified
values seen as underpinning quality journalism. MEAA members have loyalties to two organisations: their employers and the union. The practice of journalism is now vulnerable to two institutions – the media corporation and the union. The resulting duality of loyalty creates some difficult tensions for journalists seeking to engage in ethical practice. Earlier it was noted that codes of ethics perform a number of functions including defining a profession, creating a community of users, advancing moral understanding, counter-balancing commercial emphasis, responding to concentration of media ownership, promoting professional autonomy or protecting journalism from being forced to act in irresponsible ways. Promoting ethical journalism is just one of the aims of a code of ethics. In fact, the review committee of the MEAA code noted (MEAA 1997, 12, 13) that it was not intended to implement a code that prescribed perfection, rather it would begin with aspirations (describing what journalism is for besides making money); listing values and standards that should normally be followed and providing a guidance clause for dealing with potential clashes of values. The ethical journalist is an ideal in the contemporary media environment and the role of a code of ethics is more about winning legitimacy and credibility than promoting ethical journalism.

By adopting an institutional code, the MEAA appears to be concerned with highlighting the ideological conflict between media owners and journalists and promoting journalistic professionalism thereby winning public support. The values seen as essential to journalism become vulnerable to the external aims of the MEAA: winning credibility for journalists and encouraging professionalism. This is a criticism frequently proffered by Merrill (1990, 1996). At the same time, journalism is vulnerable to the aims of the media corporation.

The practice institution-distinction highlights an inherent problem with the MEAA’s approach to reforming ethics: the decision to institutionalise journalistic values noted as minimum standards. To encourage ethical journalism, the MEAA must seek commitment from both journalists and employers to the values seen as hallmarks of excellence in journalism. As the review committee (1996, xiii, xiv) has acknowledged, ethical journalism will only be possible if the papers and broadcasters that employ journalists commit themselves to ethical reform. The report (MEAA 1997, xii-xiv) sees the workplace as exerting the greatest influence on the “ethics” of journalism. However, the review committee still maintained an
institutional approach to ethical reform, opting to develop a code of ethics applicable to all journalists who are members of the union. I question the suitability of this approach if the aim of self-regulation is to encourage ethical journalism. Instead of creating another institution to divide journalistic loyalty further, the MEAA needs to address the ideological conflict at the level of greatest impact on the journalist: the workplace. One option for the MEAA could be to use the enterprise bargaining agreements between media organisations and journalists to develop workplace agreements where the core values of journalistic excellence become part of the contractual relationship between all employee journalists and their employers. This approach means the media organisations are committed to the same values as the journalists they employ. It also acknowledges the unique ethical issues that may face different media and workplaces within the media. By engaging with ethical issues at this micro level, the MEAA (with the co-operation of workplaces) may be able to change journalistic and managerial conduct (Lere & Gaumnitz 2003)\(^\text{16}\).

The second problem to emerge from the MEAA approach to journalism ethics relates to the guidance clause. This, in turn, affects the union’s ability to balance workplace influences. How does the union assist journalists to identify and understand the issues relating to ethical decision-making in context? Here the union relies heavily on the character and intellect of individual journalists. Yet, the MEAA does not have any systematic approach to ethical education and training, relying on the training derived by individual journalists through their workplaces, university training and independent endeavours. The review committee (1996, 79-83) noted the need for ethical training for journalists and adjudicators. It also urged the MEAA to engage in a publicity campaign to promote the revised code and educate the public about their rights. These recommendations have not been picked up by the MEAA.

I believe this decision has resulted in a weakening of the MEAA’s ability to influence journalistic ethics. The union, which is attempting to redress the power

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\(^{16}\) This issue will be addressed in more detail later in this chapter.
imbalance between media employers and journalists, is surrendering an important weapon in the battle of ideologies: the training of journalists in ethical decision-making. This deficiency in the MEAA approach not only relinquishes training to employers (and other organisations) but it means the employers are also able to exert pressure in terms of the importance of ethics to journalism. In other words, this failure to provide a systematic approach to ethical training within the union paves the way for the quality of journalism to be evaluated by external goods of the media corporation. This lack of education in ethical thinking is exacerbated by the MEAA’s refusal to publish reasons for finding a person ‘guilty or not guilty’ of breaching the code of ethics. The review committee (1997, 91) recommended that “as much as possible the MEAA ethics enforcement process be open to the public and therefore to reporting by the media”. However, the MEAA has failed to implement this recommendation. As a consequence, journalists have no indication of how the overriding public interest is evaluated. Nor can they glean any insights into how the MEAA interprets minimum ethical standards. This also silences the critics, suggesting the organic ethical education arising from being exposed to a variety of views and criticism is being stifled. The public is also denied the opportunity to scrutinise the ethical decision-making process. Their ability to participate in the interpretation of what constitutes the public interest is restricted and the ‘moral understanding’ to emerge reflects professional or union biases. Public involvement in evaluating ethical journalism is limited to a form of mediated participation, which could potentially alienate journalists and the public. The MEAA states legal reasons for not publishing this type of information. But a better solution (as noted by the review committee 1997, 91-93) would be to lobby for legal reform to defamation laws to recognise these communications as privileged. It is for these reasons that I believe the approach to ethical reform needs to take a system development approach.

The problem I see emerging from the MEAA’s approach to journalism ethics relates to its conception of journalism as a social institution that derives its rights from a social contract with the public. It views the social functions of journalism as legitimising journalism as an institution. These views appear to be endorsed by the Australian Press Council.
6.3 APC: A modern liberal organisation

As described in Chapter 1, the Australian Press Council is an organisation formed to oversee the ethics of Australia’s print media. It has a two-fold function of protecting freedom of speech and dealing with complaints about Australian newspapers and magazines. The APC binds member publishers and does not adjudicate on the conduct of individual journalists. When complaints are lodged, the APC deals with newspaper and magazine editors and not the individual journalists. However, individual journalists are not precluded from making submissions to the APC if they are involved in the complaint. No adjudication will be made against individual journalists.

The APC sees journalism as an institution. The public assign their right to freedom of expression to “the press” on the condition that that freedom is exercised responsibly. Like the MEAA, the APC is relying on social contract theory to legitimise the contemporary press. Unlike the MEAA however, the APC binds proprietors not individual journalists. Like the MEAA, the APC’s view of journalism fails to distinguish between journalism and the media organisation that supports it. Both the journalists and the organisations that employ journalists are assigned the public’s right to freedom of speech. In consideration for this, the proprietors agree to exercise these rights responsibly in accordance with the APC principles. The journalists are the agents of the proprietors and in terms of the APC principles, the publisher takes responsibility for the conduct of the journalists they employ.

As I have suggested previously in the section on the MEAA, this reliance on contractarian arguments to legitimise the roles of journalism in society does not adequately address the distinction between the hallmarks of excellence in journalism and the common goals of media corporations. In fact, I believe this view of journalism makes it harder to set up a system of self-regulation that encourages ethical journalism because it conflates the internal goods of journalism with the external goods of the media institutions, identifying these conflicts as tensions internal to journalism. I will illustrate this point by applying the theory of journalism as practice to the APC approach to journalism ethics.
Based on the discussion of journalism as business, management is a function of the institution not the practices internal to media corporations. Managers are the agents of the institutions appointed to maximise the external goods. Editors are part of management within the corporate structure of media corporations. In the context of the APC, freedom of speech is the priority of journalism. This freedom, while vesting in individuals, is collectively assigned by consent to “the press”. The press agrees to exercise this right responsibly. If journalism is viewed from the internal goods of the practice, then there is no need to institutionalise “the press” to justify the role of journalism in society. Journalism has a legitimacy independent of the media corporations that support it, because of its commitment to the virtues of journalism. The potential conflict between what is good journalism and what is good for business is explained and a self-regulatory system can be established to evaluate journalism from the values seen as hallmarks of excellence in practice.

According to the theory of journalism as practice, the process of ethical journalism creates and maintains the public sphere – a virtual space where people can meet to form a common opinion. Here I use the idea of the public sphere as both a space and a process by which that virtual space is created. However, if journalism is viewed as part of a media corporation then the “freedom” referred to is the marketplace and the rights assigned relate to the audience of the press. By viewing journalism as an institution, what it “produces” is vulnerable to being seen as a product or commodity of the corporations that host the practice. As argued earlier, the view of journalism as an institution that derives its rights from a social contract with its public fails to completely describe what journalism is, what it should be and how it is done. The failure to completely explain the relationship between journalists, media corporations, the media businesses and the products they produce blurs practices and institutions. The practice of journalism is weakened as a result of this conception because the virtues seen as hallmarks of excellence are interpreted from perspectives external to the practice such as audience needs, profit, effects of advertising revenue and most importantly market power.

In May 2003, the APC introduced a Charter for A Free Press in Australia (Appendix 2A), which also treats journalism as an institution comprising media
publishers and the journalists they employ. This document must be viewed in conjunction with the APC principles when attempting to identify the organisation’s ideological focus. The Charter is couched in terms of “freedom of opinion and expression as an inalienable right of a free people” (APC 2003, 1). It refers to the Universal Declaration of Human Rights and role of journalism to promote participation in democracy. The Charter then goes on to set out specific principles that are basic to “an unfettered flow of news and views” nationally and internationally (APC 2003, 2). These principles identify the right of people to be informed of matters of public interest to participate in society (principle one). This principle suggests the role of journalism is to facilitate participation in society, at a public and private level. Therefore, intrusions on “rights” of privacy may be justified on the grounds of public interest. What is a matter of public interest is determined by journalists as agents of the proprietors. If we conflate journalistic practice with the media corporation that hosts the practice, then the notion of public interest (along with the notion of journalistic excellence) is vulnerable to being assessed from the perspective of external goods. Public interest becomes audience interest. Market considerations overcome the need for journalistic independence, suggesting a neo-liberal view of journalism.

Principle two specifies that the government should not interfere with the content of news nor restrict access to any news source. Principle three commits the press to self-regulation which deals with public concerns about the press, maintenance of ethical standards and journalistic professionalism. These two principles are very important to identifying the ideological focus of the APC as a self-regulatory body. First, they reinforce the view that the press, like government, is a social institution. The press as an institution includes the media corporation and the journalists who work for the media organisations. But the public agree to assign their right of freedom of speech to the press on the condition that the press acts responsibly. This clause does not engage with the possibility of conflict between the internal goods of journalism and the external goods of the media corporation. This raises a question with which few reformers of journalism ethics have
engaged: does regulation of corporate speech diminish or advance free speech in a democratic society? 17

The MEAA review of the code of ethics danced around this issue, claiming that codes of ethics must be accepted voluntarily in order to be effective. The MEAA opted for an approach which attempted to maintain journalistic autonomy and independence by quarantining both the media corporations and the journalists they employ from any form of government control. The APC supports this approach (APC 2003).

If the APC and MEAA are seeking to change attitudes – albeit, the attitudes of management towards journalism ethics – then reviews of codes must go beyond reinforcing agreed values of journalists (MEAA 1997, xiv). An approach must be developed whereby the media corporations accept the only way to evaluate journalism is according to the virtues of that practice. Lere and Gaumnitz (2003, 4-7) identify a number of factors that may affect the ability of codes to change individually held attitudes. Among these factors include the pecuniary benefits of complying or not complying with codes: a very important factor that does not seem to be addressed satisfactorily by either the MEAA or APC. If there is a pecuniary benefit to not comply with codes (and many argue this is the case with journalism) then it will be harder to encourage people (journalists and their employers) to comply with the code. The next question is how to remove the pecuniary benefits deriving from unethical journalism? Utilising social contract theory any sanctions on media corporations are viewed as regulation of journalistic content. However, the practice/institution distinction offers an explanation of journalism that sees regulation of corporate actions as a means of strengthening journalistic virtues.

Other factors that affect the ability of codes to influence individual decisions include the nature of the conflicts in beliefs (the greater the conflict reflects a greater potential for revision) and the vagueness of provisions (the vaguer the

17 This point will be discussed in more detail later.
provisions the less potential for revision of attitude). Lere and Gaumnitz conclude (2003, 7) that when developing codes review committee may wish to consider these three questions:

1. Do the existing or proposed code provisions represent unique positions?
2. Is the existing or proposed code of ethics aimed at new or existing members of the profession?
3. When may the enforcement mechanisms be necessary? (For example, should people be encouraged to accept the code provisions or should they be encouraged to comply with the code provisions, or both?)

I argue this should be done in the context of individual workplaces to help identify the unique issues affecting individual workplaces. This approach also addresses the ideological conflicts at the place of greatest influence: the newsroom.

Neither the APC nor the MEAA appear to have addressed these issues. It seems the starting point of ethical reform has been an institutional approach whereby the standards seen as achievable in the current climate can be met (MEAA 1997, xiv; APC 2003). This approach is designed to ensure the media do not get any more unethical; rather than to proactively encourage ethical journalism. The effect, in theory at least, is to marginalise the practice of journalism as a result of the weakening of values seen as defining it.

I believe that when revising codes, these organisations need to go further than engage with the questions identified by Lere and Gaumnitz (2003) and engage with what is potentially a very unpopular question: the extent to which corporate speech is public speech that deserves protection. I argue that where the market values of corporations dominate journalistic values, it is important to distinguish between corporate and public speech. Journalistic self-regulation must address this issue. This can be done by re-evaluating the view of journalism as practice to reflect what it is, what it should be and how it is done. By adopting this approach, the quality of speech deserving protection also comes into issue. If this occurred, media corporations could not use freedom of speech arguments to justify unethical practices where business considerations dominated journalistic values.
When we apply the practice institution view of journalism, further problems with the APC approach become apparent. Given the APC’s objective of maintaining ethical standards and journalistic professionalism, the question arises as to the extent to which management should be represented on the council? On first examination of the APC membership, it looks balanced, reflecting the various stakeholders in media corporations with public, industry and journalist/editors members. But a further examination of that membership reveals a strong management focus. The independent chair is a former university vice-chancellor, a high level management position (albeit in a different industry context). Of the 10 public members (including alternates) six have management backgrounds, two have a background in law (one a barrister and the other an Associate Dean of Law), one is a senior public servant (not directly in a management position) while the other public member is a project research officer (who arguably is involved in managing research). The council also has 10 industry members (including alternates). These industry representatives include a director of Nationwide News (the operating company for Sydney based News Limited), a deputy editor, a proprietor of North Western Courier Pty Ltd, editorial development manager for *Herald and Weekly Times* (News Limited), a former director and chief editor of Northern Newspapers, chief-of-staff of *The Examiner*, editor of *Money*, the education writer for the *Sydney Morning Herald* and a senior writer for *The Age*. The majority of industry members have management backgrounds. The council has six journalist and editor members (including alternates). Four of the six representatives are former editors (one being a managing editor of Queensland Newspapers) with two being senior freelance writers. The journalist members are not employed by one news organisation, but have high level experience within the industry.

Why is the composition of the council important to this discussion? In articulating my theory of journalism as practice, I noted that MacIntyre viewed employment as an institutional function. Positions of editor and chiefs of staff fall within management. Based on the practice institution/distinction set out in the previous chapter, I argue these positions are appointed to integrate management values into the production of journalism. They are the frontline of conflict between corporate and journalistic values and the internal goods of journalism are extremely
vulnerable to being evaluated from corporate perspectives, where the public good is viewed as what is good for the audience/business. This failure to distinguish between the practice and the corporation has resulted in a self-regulatory structure where there is a high risk of corporate values dominating journalistic values, thus making the practice weaker. Instead of promoting the values seen as hallmarks of journalistic excellence they appear vulnerable to reinforcing corporate values.

Therefore, I suggested that composition of organisations seeking to encourage ethical journalism should include industry representatives that reflect journalistic rather than corporate values. The above discussion reveals a management dominated council, with 18 of the 27 members having management backgrounds (in a diverse range of areas). There are only five writers in the council membership. Of the four remaining members, one has an education background, one is a senior policy adviser and two have a background in law.

Clauses four to six of the charter outline the specific roles of the press including presenting a diversity of views and opinions, protecting the public right to know, and resisting laws that inhibit the news process. These views indicate the important role of speech in individuals participating in society. However, if the organisation that oversees ethical practice is dominated by people who have been educated and worked in management then managerial conceptions of good may dominate when adjudicating on journalistic issues. The values seen as hallmarks of journalistic excellence could be vulnerable to interpretation from a market perspective, further marginalising journalistic practice.

The APC subscribes to the revised theory of journalism as the fourth estate (Schultz 1998). Given the role of self-regulation and commitment to professionalisation, the organisation is reflecting a modern liberal view of journalism, where the press is an independent autonomous institution that justifies its existence on the grounds of social contract i.e. the public consent to the press exercising their right to freedom of speech on the condition that they exercise responsibly and professionally and agree to be accountable to the public via a system of self-regulation. The Australian Press Council states in its principles:

> The freedom of the press to publish is the freedom of the people to be informed.
> This is the justification for upholding press freedom as an essential feature of a
democratic society. This freedom, won in centuries of struggle against political and commercial interests, includes the right of a newspaper to publish what it reasonably considers to be news, without fear or favour, and the right to comment fairly upon it.

Second, the freedom of the press is important more because of the obligation it entails towards the people than because of the rights it gives to the press. Liberty does not mean licence. Thus, in dealing with complaints, the council will give first and dominant consideration to what it perceives to be the public interest (APC 1996, 1).

However, the management orientation of the APC makes the values upheld by that organisation vulnerable to corporate (and market) considerations. This is particularly problematic when vague terms such as public interest are referred to in the code. The APC (February 2003, 3) has attempted to define public interest describing it as “involving a matter capable of affecting the people at large so they might be legitimately interested in, or concerned about, what is going on, or what may happen to them or to others”. The APC membership decides what constitutes a legitimate interest. If the council membership has a predisposition to management values, then the notion of what is a legitimate public interest also becomes vulnerable to being interpreted from a market perspective. Audience interest may equate to something very different to public interest.

The APC has attempted to represent the various journalistic stakeholders: publishers, journalists and the public. But in selecting its membership the council has appointed people with management backgrounds. To truly represent the various journalistic stakeholders, the council needs a greater diversity of people represented on the council. The council should include more journalists without management experience and public representation should be drawn from sectors other than management. There should be greater representation of minority groups and an ethicist should be asked to join the complaints committee.

### 6.4 ABA: A neo-liberal approach to self-regulation

While the Australian Press Council deals with complaints about the Australian press, the Australian Broadcasting Authority is a statutory body that has been set up by the Commonwealth Government to oversee the broadcasting and Internet services in Australia. It operates within a broad legislative scheme. Section three
of the Broadcasting Services Act (1992) sets out the objectives of the ABA. (Broadcasting Services Act 1992, section 3; Commonwealth of Australia 2000, Ch 3, 3). It states:

The objects of this Act are:

(a) to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information; and

(aa) to promote the availability to audiences and users throughout Australia of a diverse range of datacasting services; and

(b) to provide a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs; and

(ba) to provide a regulatory environment that will facilitate the development of a datacasting industry in Australia that is efficient, competitive and responsive to audience and user needs; and

(c) to encourage diversity in control of the more influential broadcasting services; and

(d) to ensure that Australians have effective control of the more influential broadcasting services; and

(e) to promote the role of broadcasting services in developing and reflecting a sense of Australian identity, character and cultural diversity; and

(f) to promote the provision of high quality and innovative programming by providers of broadcasting services; and

(fa) to promote the provision of high quality and innovative content by providers of datacasting services; and

(g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance; and

(h) to encourage providers of broadcasting services to respect community standards in the provision of program material; and

(i) to encourage the provision of means for addressing complaints about broadcasting services; and

(j) to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them; and
(ja) to ensure that international broadcasting services are not provided contrary to Australia’s national interest; and

(k) to provide a means for addressing complaints about certain Internet content; and

(l) to restrict access to certain Internet content that is likely to cause offence to a reasonable adult; and

(m) to protect children from exposure to Internet content that is unsuitable for children; and

(n) to ensure the maintenance and, where possible, the development of diversity, including public, community and indigenous broadcasting, in the Australian broadcasting system in the transition to digital broadcasting.

Nowhere in this list of aims and powers is there a specific reference to journalism. News and current affairs (which are usually produced by journalists) are treated as part of the broadcasting business. Therefore the practices of journalism and media business are collapsed with the corporate entities that host these practices forming an institution described as the broadcasting industry. This treatment of broadcasting is acceptable if journalism is viewed merely as a product or commodity produced by media organisations. However, I have questioned the suitability of this conception of journalism. In light of the practice/institution distinctions discussed in the previous chapter, it becomes apparent that the internal goods of journalism are vulnerable on a number of fronts. First, the market-focus of the ABA’s responsibilities (section 3(b) (ba) Broadcasting Services Act, 1992) makes journalism vulnerable to being assessed by external goods of the media corporations. The quality of journalism is also vulnerable to being assessed by values seen as important to the practice of media business rather than journalism. In light of its list of powers and responsibilities, the ABA’s evaluation of journalism is dominated by market issues rather than values seen as the hallmarks of quality journalism, suggesting a neo-liberal ideology.

The second obvious point is that the ABA has no power or responsibility to encourage ethical journalism or ethical broadcasting. The aims of the ABA are prescribed by legislation, therefore any action that goes beyond those set out in the Act are beyond the power of the statutory body. The Act specifies that the ABA aims to foster and develop an industry and promote cultural identity in terms of market demands. Given the specific powers and aims set out in the Act, the
ABA would be acting beyond its powers and decisions could be challenged if it stated that encouraging ethical journalism was one of its objectives. The collapsing of the practice-institution distinction becomes more apparent in light of section four of the Broadcasting Services Act (1992), which states:

(1) The Parliament intends that different levels of regulatory control be applied across the range of broadcasting services, datacasting services and Internet services according to the degree of influence that different types of broadcasting services, datacasting services and Internet services are able to exert in shaping community views in Australia.

(2) The Parliament also intends that broadcasting services and datacasting services in Australia be regulated in a manner that, in the opinion of the ABA:

(a) enables public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on providers of broadcasting services and datacasting services; and

(b) will readily accommodate technological change; and

(c) encourages:

   (i) the development of broadcasting technologies and datacasting technologies, and their application; and

   (ii) the provision of services made practicable by those technologies to the Australian community.

(3) The Parliament also intends that Internet content hosted in Australia, and Internet carriage services supplied to end-users in Australia, be regulated in a manner that:

(a) enables public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on Internet content hosts and Internet service providers; and

(b) will readily accommodate technological change; and

(c) encourages:

   (i) the development of Internet technologies and their application; and

   (ii) the provision of services made practicable by those technologies to the Australian community; and

   (iii) the supply of Internet carriage services at performance standards that reasonably meet the social, industrial and commercial needs of the Australian community.

This section has two main aims. The first is to implement a self-regulatory system that imposes standards according to the level of influence of that service. But how does the ABA measure influence? When investigating breaches of the
Commercial Radio Codes of Practice in the Cash for Comment Inquiry (ABA 2000, 8), the ABA concluded that talk-back radio (particularly that hosted by John Laws) was highly influential. Factors taken into account included: the perceived authority of the host, derived by looking at the views of public figures including the Prime Minister of Australia (ABA 2000, 9); potential audience; ratings; potential for audience participation (ABA 2000, 8) and audience perceptions of the program. Market issues such as audience reach and audience perceptions form the basis for evaluating influence. Therefore the levels of self-regulation are determined by market considerations.

But the second major aim of this section states that in promoting matters of public interest, the ABA is obligated not to impose unnecessary financial or administrative burdens on service providers (Broadcasting Services Act 1992, section 2(a)). The market demands greater regulation, but when enforcing standards the ABA must not impose conditions that could unduly affect those markets. The question remains in relation to journalism and presentation of news and current affairs, what about quality? Where do honesty, accuracy, fairness, respecting rights of others and independence get taken into account?

Section 123 of the Broadcasting Services Act (1992) may shed some light on the importance attributed by the ABA to the values seen by the MEAA and APA as the hallmarks of journalistic excellence. This section provides guidelines for development of industry based codes. Sub-section 2 of that section reads:

Codes of practice developed for a section of the broadcasting industry may relate to:

(a) preventing the broadcasting of programs that, in accordance with community standards, are not suitable to be broadcast by that section of the industry; and

(b) methods of ensuring that the protection of children from exposure to program material which may be harmful to them is a high priority; and

(c) methods of classifying programs that reflect community standards; and

(d) promoting accuracy and fairness in news and current affairs programs; and

(e) preventing the broadcasting of programs that:
(i) simulate news or events in a way that misleads or alarms the audience; or

(ii) depict the actual process of putting a person into a hypnotic state; or

(iii) are designed to induce a hypnotic state in the audience; or

(iv) use or involve the process known as subliminal perception or any other technique that attempts to convey information to the audience by broadcasting messages below or near the threshold of normal awareness; …

(i) such other matters relating to program content as are of concern to the community.

This section treats news and current affairs as part of the programming decisions of media business. It reveals that accuracy and fairness are seen as hallmark values of news and current affairs. The presentation of news and current affairs should not mislead or “alarm” audiences. Programming must reflect community standards, but the community referred to is the industry audience and not the general public. In fact, public interest matters must be interpreted from a perspective that does not unduly interfere with the commercial viability of the media corporations.

This discussion reinforces the observation made earlier about the ABA’s neo-liberal ideology. While the Act refers to community needs and views, these concepts are framed by an overarching obligation to promote an industry by responding to audience needs. The market determines value and the corporate aims of profit and developing audiences should not be compromised by a system of self-regulation. Therefore the values of the practices within the broadcasting industry (including journalism) are subservient to the needs of the broadcasting industry. In short, corporate values dominate journalistic values. This deficiency (arguably anomaly) in the ABA’s approach to journalism is evidenced in the Cash for Comment Inquiry. In Cash for Comment, Radio 2UE was investigated for breaching both the Broadcasting Services Act and the Commercial Radio Codes of Practice. The inquiry investigated agreements entered into by radio broadcasters John Laws and Alan Jones where they received money from various organisations to present comment endorsing a product or service during their talk back programs. In evaluating their conduct, the ABA looked at the responsibilities prescribed by the Act and the radio codes of practice relating to programs
unsuitable for broadcast, news and current affairs programs, advertising, Australian music, complaints handling and interviews/talkback programs.

In evaluating the question of whether Laws and Jones breached Code of Practice 2 relating to news and current affairs, the panel considered the effect of the broadcasts on readers. The panel noted “listeners’ views as to whether an interview is ‘hard’ or ‘soft’ may be affected by the disclosure of a commercial agreement between the interviewer and interviewee” (ABA 2000, 19). While this comment takes account of the provisions of the code, it falls well short of evaluating the quality of the broadcast in journalistic terms. It acknowledges the effect of a failure to disclose a relationship between the broadcaster and the interviewee on how listeners treat information, but it does not ask whether that relationship then relegates that information to something other than news. It does not consider the wider implications of this action in terms of the social roles of journalism to provide information in the public interest. What is the public interest in receiving advertising material disguised as news? How does this contribute to the public sphere: the virtual space where people debate information and assimilate information to form a common opinion? The actions of 2UE, Laws and Jones lack all of the qualities seen as defining journalism. The fact that the ABA treated this material as news, albeit “soft” news, legitimise this conduct provided the relationships between broadcaster and interviewee are declared. The treatment of news and current affairs as part of the general programming of broadcasting fails to recognise that journalism performs roles beyond just providing information. It treats journalism as a commodity or product that the broadcasting industry uses to gain strength. It evaluates the quality of journalism from the effect on audiences rather than its effect on the wider society. It marginalises journalism to the extent that it is unrecognisable as journalism. As MacIntyre cautions: if the pursuit of external goods were to become dominant “the concept of virtues might first suffer attrition and then perhaps something near total effacement, although simulacra might abound”.

Instead of questioning the notion of fairness and accuracy of the programs by examining the distinction between soft news and hard news, the panel should have looked at the issue of whether the presenter misled the audience by passing
advertising off as news. Laws and Jones should have been found in breach of sections 123 (2) (a)\textsuperscript{18} and (e) (i)\textsuperscript{19}.

In an ironic twist John Laws has been awarded a Centenary Medal for “services to Australian society through journalism and social community” (ABC 2003, 1) and Alan Jones has received a medal for “services to the broadcasting industry and sport”. The fact that Laws’s work is rewarded as journalism reinforces the point made earlier that market values are a dominant factor in evaluating the quality of broadcast journalism, suggesting the virtues of journalism are being weakened.

As this example illustrates, the ABA oversees a number of industry codes of practice. So how do the industry codes deal with journalism? Do these codes reinforce the values seen as hallmarks of journalistic excellence by the MEAA and APC?

The Commercial Television Industry Codes of Practice (CTVA 1999, section 1.1 p4) state that the code is intended to regulate the content of commercial television in accordance with current community standards; ensure that viewers are assisted in making informed choices about their own and their children’s television viewing; provide uniform, speedy and effective procedures for handling of viewer complaints; and subject to review.

Section four sets out the codes’ objectives regarding news and current affairs programs. It states (CTVA 1999, section 4, p26) this section is intended to ensure:

- News and current affairs programs are presented accurately and fairly.
- News and current affairs programs are presented with care, having regard to the likely composition of the viewing audience, in particular the presence of children.

\textsuperscript{18} preventing the broadcasting of programs that, in accordance with community standards, are not suitable to be broadcast by that section of the industry;

\textsuperscript{19} preventing the broadcasting of programs that: (i) simulate news or events in a way that misleads or alarms the audience
• News and current affairs take account of personal privacy and the cultural differences in the community.

• News is presented *impartially*\(^{20}\).

This section appears to be reinforcing the values seen by the MEAA and APC as hallmarks of journalistic excellence. As the Cash for Comment example illustrates, where journalism is treated as part of the business of journalism, responsible journalism is interpreted from an audience perspective. This market-orientation suggests a neo-liberal ideology that frames the interpretation of codes. I have stated earlier that this has resulted in the marginalisation of the practice of journalism, where the values seen as hallmarks of excellence are susceptible to being interpreted from the perspective of external goods. Further evidence of the effacement of journalistic values is indicated by the fact that the current codes of practice include the Advertiser Code of Ethics as an appendix, yet there is no acknowledgement or recognition of the MEAA (or other journalistic) codes. This supports the claim made earlier in this chapter that the ABA is not concerned with promoting ethical journalism or ethical broadcasting, but is concerned with promoting the industry (which translates into promoting business interests). The interpretation of what is responsible in terms of presenting news and current affairs, in the commercial context at least, is framed by this market-orientation.

As the Cash for Comment example highlights, the Commercial Radio Codes of Practice reinforce this view. The codes (CRA – formerly Federation of Australian Radio Broadcasters 2001, section 1.1 p4) stated aim is to “prevent the broadcast of programs which are unsuitable, having regard to prevailing community standards and attitudes”. Regarding news and current affairs, the code states the purpose is to “promote accuracy and fairness in current affairs programs” (FARB 2001, p6).

\(^{20}\) The 2003 review of CTVA’s codes of practice has recommended only minor changes by incorporating a special paragraph regarding identification of children and changing cl 4.37 from an obligation to avoid unfairly identifying people or businesses to incorrectly identifying a single person or business.
It goes on to say (FARB 2001, 6) news programs (including news flashes) broadcast by a licensee must:

- Present news accurately
- Not create panic or distress
- Distinguish fact from comment.

Sub-section 2.2 (FARB 2001, 6) also requires licensees to take steps to correct substantial errors, distinguish fact from analysis and comment, represent a diversity of views in relation to matters of community relevance. It also obliges licensees not to misrepresent views and avoid intrusions of privacy.

In relation to interviews and talkback, the codes (FARB 2001, section 6, p18) aim to “prevent unauthorized broadcast of statements by identifiable persons”, requiring licensees to inform identifiable people in advance of the intention to broadcast their statements and obtain consent to air that material if it has been recorded without prior knowledge.

The codes include an interesting qualification. Section seven of the codes (FARB 2001, 19) states that a licensee will not have breached the code if the failure to comply with the provisions arises as a result of a reasonable mistake or reasonable reliance on information supplied by another person or an act or default of another person. Given the nature of journalism and its reliance on information from third parties, breaches of the codes in the presentation of news and current affairs will usually fall within this section, leaving radio journalism ostensibly unregulated (unless journalists are members of the MEAA). However, the fact that licensees are obliged to advertise the commercial radio codes and the effect of their operation at least once a week (FARB 2001, 7.2, p19), people seeking to make a complaint against a radio news or current affairs program would most likely seek redress through this avenue.

This discussion reveals that the broadcasting licensees face far less rigid standards than their employee journalists who are members of the MEAA. In evaluating the quality of news and current affairs, audience needs and desires take priority over what is viewed as ethical journalism. This system may recognise the fact that
journalists have their own professional codes (MEAA) but you will recall that individual journalists are only bound by this code if they are members of the MEAA. Nowhere in the commercial codes of practice relating to broadcasting industries are licenses obliged to recognise the MEAA code of ethics or respect the values seen as hallmarks of journalistic excellence. At least in relation to the commercial industries, the aim of self-regulation is promotion of a viable industry. It is not intended to encourage ethical journalism. Again, a pattern emerges that the licensees rely on the journalists they employ to be ethical.

This problem does not appear to occur with the Australian Broadcasting Corporation, which is also accountable to the ABA. The ABC is Australia’s national, non-commercial broadcaster, which began operating in 1932. Section 6 Australian Broadcasting Corporation Act (1983) specifies the ABC’s functions as:

- Providing innovative and comprehensive broadcasting services which include programs that contribute to a sense of national identity; inform and entertain; and reflect on the cultural diversity of the Australian community; and
- Transmitting news, current affairs, entertainment and cultural enrichment programs that encourage international awareness and understanding of Australia.

It also must broadcast parliamentary proceedings, providing access to and aiding participation in democracy. In the performance of these functions, the ABC is independent of the government. The corporation’s board has the duty of “maintaining the independence and integrity of the corporation” (Australian Broadcasting Corporation Act 1983, section 8(1)(b)). The ABC’s Code of Practice (2002) preamble notes the corporation’s “unique responsibilities” and editorial independence.

I have already noted the differences between commercial and non-commercial media in terms of the practices hosted and the nature of the media institution. The ABC, for instance, is not motivated by profit and loss in commercial terms. However, the media organisation that hosts it is concerned with providing a complete broadcasting service to all Australians, helping to develop a national
identity and helping educate the Australian community. It also aims to promote understanding nationally and internationally and promoting musical, dramatic and other performing arts (ABC 1998, 1). These are the common goals of the media institution known as the ABC. The ABC hosts the practice of journalism, which is partially defined by a set of common values that determine journalistic excellence. Self-regulation, which aims to integrate the internal goods of a practice and the external goods of the institution, is another practice. Another function of self-regulation is to integrate the internal goods of each of the practices hosted by the various organisations. Therefore, self-regulation as a practice is hosted by the ABC and the ABA. If the object of self-regulation is to promote ethical journalism, then the internal goods of journalism must be given priority over the external goods of the media corporations. The ABC Code of Practice sets out the “unique responsibilities” of the corporation including provision of an independent news service. In relation to news and current affairs the code (ABC 2002, section 4.1 (a)) obliges personnel to take every reasonable effort to ensure content is accurate and compels the correction of any demonstrable errors. It notes staff should not be obliged to disclose confidential sources and requires re-enactment of events to be clearly identified as such. Suicides and reports relating to traumatic events should be reported sensitively (ABC 2002, section 4.1 (d, e)). Section (4.2) (ABC 2002) requires news and current affairs to be impartial and balanced. These values reflect the hallmarks of excellence in journalism: independence, honesty, accuracy, fairness and respecting the rights of others. The ABC’s workplace code reinforces the qualities seen as hallmarks of journalistic excellence whereas the commercial codes reinforce the external goods of the industry (preservation of audiences which ensure profit).

This highlights a central problem with the ABA being viewed as a journalism regulator. The ABA is an industry regulator and the commercial industry codes reinforce corporate rather than journalistic values. This poses a problem when the ABA reviews decisions relating to the ABC. The ABC code aims to encourage responsible and independent journalism, which accords with the common goals of journalistic practice. The actions of ABC journalists are reviewed by a self-regulatory institution which views the market needs as its priority. In fact, it has an overriding obligation to promote the broadcast industry. Herein lies another
ideological conflict where the values of journalism are extremely vulnerable to corporate values of profit and power.

6.5 The Age code of conduct: A workplace approach

The final code considered in this study is the workplace code introduced by The Age newspaper. What view of journalism does it reflect? The Age Code of Conduct (1998) states in its introduction:

> The Age Code of Conduct is an important statement about how we behave in our professional lives – about how we relate to newsmakers, sources, contacts, colleagues and the public. It gives guidance as to the high ethical standards expected at the Age. The overriding principles are fairness, integrity, openness, responsibility and commitment to accuracy and truth. Sustaining the highest editorial standards is essential to us retaining the trust of the community and the freedoms and responsibilities afforded to us by the community….The code sees to uphold the principles of merit, responsible management and professional competence and efficiency within the company. Staff unsure of appropriate action to take in a particular situation should consult with colleagues, senior editors or the editor…

The key characteristics of the journalistic ideology underpinning The Age code are fairness, integrity, openness, responsibility, pursuit of truth. The code, like the MEAA and APC principles, relies on social contract arguments to justify conduct that may potentially harm others. It argues the public afford The Age certain freedom and in order to maintain public trust The Age agrees to pursue these freedoms responsibly. This argument, as noted earlier, does not distinguish between journalism and the business that supports it.

However, the code implicitly acknowledges there are tensions between common goals of journalistic practice and the business aims of a media corporation. The Age code attempts to address this conflict of values between the practices of journalism and business by obliging all editorial staff to uphold the principles of merit, responsible management and professional competence and efficiency within the company. Only editorial staff are bound by the code. In fact, it relates only to employees and therefore – in a strictly legal sense – would not apply to freelance journalists who are viewed as independent contractors. Given there are conflicting values in at least three or four practices within media corporations, this
code should bind all employees and contributors. In this sense, letter writers and commentators (who are not employed by the Age) are also bound by the values seen as hallmarks of excellence in journalism.

The code highlights (in considerable detail) the qualities seen as hallmarks of excellence in terms of journalistic practice. The problem with this code lies in the area of where journalists obtain direction on ethical conduct. Senior editors and editors advise journalists on appropriate conduct. But editors are part of management and there is at least a perception that management will reinforce the corporate values of an institution. If the workplace code is to encourage ethical journalism, then an independent ethics officer should be appointed to represent journalistic rather than management values.

### 6.6 Conclusions

In the table on the next page, I have summarised the key characteristics of the codified ideologies of journalism as specified in the sample of codes discussed in Chapter 1, expanding on the findings from Chapter 1 by classifying the codified values in terms of classical liberal, modern liberal and communitarian approaches to freedom of speech.

This discussion reveals a variety of conceptions of journalism. The APC and MEAA reflect a modern liberal view of journalism, where individual journalists operate in a professional or industry context. They are a collective of individual bounded by a common goal of responsible journalism as prescribed by the codes. The ABA reflects a neo-liberal view of journalism where journalistic practice is treated as just one part of the broadcasting business. Audience needs and desires become the dominate factor in determining what is responsible. Promoting the broadcasting industry takes priority over encouraging responsible journalism. The ABA does not aim to encourage ethical journalism. Therefore the values seen as partially definitive of journalism are vulnerable to the external goods of broadcasting corporations and the industry.
<table>
<thead>
<tr>
<th>MEAA</th>
<th>APC</th>
<th>CTVA</th>
<th>FARB</th>
<th>The Age</th>
<th>ABC</th>
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<td><strong>Preamble:</strong></td>
<td>Preamble &amp; charter of free speech</td>
<td>Broadcasting Services Act 1992 Annual reports ABA</td>
<td>Broadcasting Services Act 1992 Annual reports ABA</td>
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<td>Charter &amp; Preamble Code</td>
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<td><strong>Binds journalist members</strong></td>
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<td>Defines role of press</td>
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<td>No specific mention of journalism</td>
<td>Outlines role of Age journalists.</td>
<td>Specific provisions relating to journalism</td>
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<td><strong>Accountable to profession</strong></td>
<td>Press viewed as an institution</td>
<td>Accountable to audience</td>
<td>Accountable to audience</td>
<td>Accountable to management but state in terms of community responsibility</td>
<td>Accountable to community</td>
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<td><strong>Common goal: pursuit of responsible journalism</strong></td>
<td>Common goal: Freedom of speech (the press)</td>
<td>Common goal: Promote viable broadcasting industry</td>
<td>Common goal: promote viable broadcasting industry</td>
<td>Common goal: Responsible journalism &amp; effective management</td>
<td>Common goal: Independent broadcaster, promoting community values</td>
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<td><strong>Responsible journalism achieved through honesty, fairness, independence &amp; respect for rights of others</strong></td>
<td>Responsible journalism achieved through freedom</td>
<td>Responsible broadcasting of news and current affairs</td>
<td>Responsible broadcasting of news and current affairs</td>
<td>Responsible journalism is one goal along with others – fairness integrity, openness and commitment to accuracy &amp; truth</td>
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<td><strong>Respect truth</strong></td>
<td>Pursuit of truth</td>
<td>No mention</td>
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<td>Overriding commitment</td>
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<td><strong>Public right to information</strong></td>
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<td><strong>Constrained freedom of expression in terms of responsible journalism</strong></td>
<td>As with MEAA</td>
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<td><strong>Public responsibilities arising from social contract with public</strong></td>
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<td>Community building &amp; maintaining</td>
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<td>Modern liberal with management focus</td>
<td>Modern liberal towards communitarian</td>
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The ABC and *The Age* also reflect a modern liberal view of journalism where individuals are bound by a common goal of responsible journalism. The ABC does not specifically refer to journalism, but commits its staff to engage in producing and presenting news and current affairs according to the values seen as hallmarks of journalistic excellence. This is in stark contrast to the commercial broadcasting codes that see audience needs and promoting the industry as its common goal. In fact, the radio codes exonerate any breaches of the codes if it can be shown that the licensee made a reasonable mistake or relied on information supplied by another person. In practical terms, this means breaches of the code relating to journalism will escape censure because it could be seen as the licensee relying on information supplied by another person. The code does not impose any obligations on the licensee to verify the validity of information.

This discussion highlights some important ideological conflicts between the practices of journalism, business and self-regulation. The current system of self-regulation, which relies heavily on codes, does not address this problem. In fact, I believe that by viewing the ABA as a journalism regulator the system is undermining the virtues of journalism to the extent that the practice is almost unrecognisable.

The system of self-regulation in Australia is inherently flawed by its conception of journalism that allows the conflation of the practice of journalism with the business of journalism and the media corporation. In this chapter, I have attempted to illustrate how the ABA view of journalism as a commodity has marginalised journalism to the extent that material that is not journalism is now treated as such. I also argue that the view of journalism as an institution also poses problems because it does not sufficiently distinguish between the practice of journalism and the institution of the media corporation. This ultimately contributes to a weakening of the journalistic virtue. In the next chapter, I will look more closely at the notion of journalistic virtues.
Chapter 7

The role of virtue in ethical journalism

7.1 Introduction

To this point, I have constructed a fairly complex theoretical map to help evaluate whether Australia’s current self-regulatory practices in journalism can give effect to ethical journalism. Examination of a representative sample of journalism codes reveals these bodies adopt a determinative approach to resolving disputes. Discussion in Chapter 1 revealed that the processes and procedures and the system of review employed by self-regulatory bodies are conflict driven, complaint oriented and more determinative than facilitative. Systems for reviewing rules are usually conducted as formal inquiries to which people make submissions. There are informal aspects of the self-regulatory process, such as the ABC’s Media Watch program, letters to the editor, and the Media section of The Australian newspaper. These informal approaches supplement the accountability processes by promoting responsible journalism through peer appraisal. They also aid understanding of journalistic practice. Generally, these approaches are organisationally centred and are susceptible to the ideological focus of the institution that hosts them. This study focuses on the formal aspects of self-regulation.

In this chapter, I argue the formal self-regulatory processes predominantly reflect a deontological or rule utilitarian approach to ethics, which has focussed the journalism industry too heavily on rules and principles rather than encouraging ethical journalism. Statman suggests (1997, 7) that living according to utilitarianism and deontology means “caring about principles, rules and obligations, not about real human beings”. This may be one cause of the alienation of journalism from its public, a criticism made of contemporary media (Meadows 2001). But it could also reinforce a particular view of journalism ethics where following the rules and justifying business decisions becomes more important than pursuing the values seen as the hallmarks of journalistic excellence. This point was made previously, particularly in relation to the ABA. I have utilised the
theory of journalism as practice to identify and critique the self-regulatory codes’ conception of journalism. I concluded that modern liberal views of journalism predominate but I also noted that several self-regulatory bodies have neo-liberal tendencies, where the market or management determine what is ethical.

Here, I re-examine the sample of journalism codes arguing the modern liberal and neo-liberal values have affected the industry’s approach to journalism ethics. I contend conceptions of journalism as a community of one – the individual autonomous agent – and theories that see journalists as a collective of individuals, operating within a professional or industry community bound by common goals and values, have seen deontological and consequentialist theories of ethics dominate the industry’s approaches to ethics. More communitarian theories of journalism have seen an emphasis on participatory practices but (to date) have done little to move the discussion of journalism ethics beyond the deontological and utilitarian paradigms. The Ethics and Excellence in Journalism Foundation (Black 1997, v) sees this issue as one of the central ethical issues facing journalism today. When analysing this problem commentators have tended to identify with one conception of journalism. The ethical journalist is either an isolated individualist or a committed member of the wider community. The majority of codes examined in this study see the ethical journalist as a member of a professional community. Others view the ethical journalists as a part of the wider community. Christians (1995, 1997, 21) takes this view, describing the ethical journalist as someone who is committed to universal values, which encourage human solidarity. He offers “qualified support” for codes of ethics provided they carry effective sanctions (Christians1989, 36). However, codes should not be seen as a final solution (Christians 1989, 49), suggesting self-regulatory bodies need to look beyond codes and sanctions to promote ethical journalism. Journalists and the public alike must engage in the ethics debate. Glasser sums up Christians’ argument:

A normative social ethics of the kind Christians proposed deals with questions of media accountability not by providing a blueprint for conduct but by offering a meaningful opportunity for a sustained, coherent and unemotional discussion about the media and their service to the community (Glasser 1989, 185).
This means providing a framework by which journalists are encouraged to act ethically. I agree with Christians that this ethical framework involves more than codes and rules. It must encourage public participation.

Christians refers to a universal journalistic duty to help sections of society connect with each other (Christians 1992, 1995; Craig 1996, 114). The universal values, articulated by Christians, commit journalists to encouraging discussion of issues to promote social cohesion and civic transformation. Critics of Christians see this as putting public good before journalistic freedom.

The theory of journalism as practice argues the common goal of journalism in contemporary society is to produce a virtual space where the public can form a common opinion: the public sphere. At times, this may mean putting the public good before journalistic freedom. In recent times this has occurred with the reporting of terrorism and war. Christians has a point that an aim of journalism is the promotion of social cohesion. However, I disagree with Christians’ view of how that is achieved. His theory of journalism relies on the principled actions of the individual journalists to describe what journalism is. It does not explain how individuals decide what is social cohesion or how they should go about promoting civic transformation. The theory identifies that journalism performs a social function beyond satisfying market demands, but it fails to reconcile the conflicting aims of journalism: civic transformation and making money. For this reason, I argue the theory of journalism as practice, articulated in Chapter 5, offers a more complete description of journalism in contemporary society. But I have an additional problem with Christians’ approach to journalism and journalism ethics.

Rules, sanctions and an overriding duty to civic transformation are seen by Christians as the key to ethical journalism. While sanctions are important to encouraging responsible journalism, I agree with Christians that they are not the sole solution. Codes reinforce rules, principles and obligations but individual action will only be influenced if sanctions are severe (Christians 1992). While espousing a communitarian view of journalism, Christians’ approach to ethics is still essentially deontological. He has not moved beyond the accepted ethical paradigm that ethics are either act-oriented or end-oriented. Christians is calling for a framework to encourage ethical journalism (in terms of codified values and
effective sanctions) but he sees this as being achieved in terms of an overriding duty to act in a particular way. His ethical framework is essentially deontological.

To encourage ethical journalism, I believe the industry must reflect further on the theories of ethics and go beyond the conception of ethics as duty. I am not suggesting that codes or principles should be rejected, but the road to encouraging ethical reform should look at how individuals and organisations can be encouraged to act ethically. Self-regulation needs to provide supportive frameworks to continuously improve ethical conduct (Petrick & Quinn 1997, 53). This means addressing actions, consequences and the motivations of journalists. Christians’ theory of journalism ethics does not offer a comprehensive ethical framework upon which to found reform.

But more importantly for this study, the current system of self-regulation does not provide a framework that encourages ethical journalism. In fact, in Chapter 5, I have argued that the current system of self-regulation in Australia (particularly the ABA) is contributing to the marginalisation of journalism practice by weakening the core values seen as hallmarks of excellence. In the language of practice theory, the virtues of journalism are being dominated by external goods of the market and management. The reasons for this are numerous. But the problem is not only the values reflected in the codes but also the way in which those values are operationalised and interpreted. In particular, the processes and procedures put in place to enforce these codes reinforce a view of ethics that relies too heavily on principles and rules. The determinative processes have a tendency to transform ethical guidelines into rules.

The MEAA processes and procedures offer a good example of another problem with the current system of self-regulation. Despite recommendations to implement greater transparency in the complaint process, the MEAA has still not moved to publish complaint findings or to open the complaint proceedings to the public. Neither the practitioner nor the public is given reasons for the Judiciary Committee’s determination on a particular issue. Instead of offering public explanations of the nature of the complaint and the journalists’ reasons for acting in a particular way, this approach tends to justify or condemn the conduct. This approach is in stark contrast to the APC, whose only sanction in relation to
breaches of the council principles is to publish the APC’s adjudication. Many people are critical of the APC for its lack of effective sanctions. But publication of adjudications does offer an explanation of the public complaint, the journalist’s/publisher’s response and the APC’s evaluation of the action, thus creating a more participatory environment. But the APC has other limitations, some of which have been described previously.

These problems are further indications of the need for journalism to re-evaluate its approach to self-regulation. Instead of focussing on deontological and rule utilitarian approaches to ethics, I believe the debate about journalism ethics must embrace virtue theories to provide a supportive framework to continuously improve ethical conduct. As Whetstone (2001, 2) notes “moral reasons can include both the duty to act and the consequences expected from the act as well as the belief that so acting is characteristic of the kind of person one wants to be”. This means taking account of deontological, utilitarian and virtue theories of ethics to provide a holistic approach to ethical reform.

By adopting a holistic approach to ethics, journalism may be able to confront what Richards (1997, 72) describes as “the ethical imbroglio” created by the employee versus corporate ethics conundrum. In this chapter I attempt to postulate an approach to journalism ethics that accommodates professional ethics, individual ethics and the role of the media corporation (Richards 1997, 71). To do this I build on the theory of journalism as practice articulated earlier. But before moving on to this discussion, it is important to draw some distinctions about the aims of self-regulation. I have claimed throughout this dissertation that the current system of journalistic self-regulation cannot encourage ethical journalism. I offer several reasons for this. I have identified problems with both the values reflected in the codes and the processes put in place to enforce those values. All of these factors are seen as part of journalism ethics. This view of ethics may contribute to some of the industry’s problems because it fails to distinguish between ethics, responsibility and accountability.
7.2 Defining ethics: Some important distinctions

It is hard to define ethics. In fact, intellectuals throughout the ages have postulated many different views of ethics. The diversity of approaches to journalism ethics has been noted by Alia et al (1996) in their edited book Deadlines and Diversity: Journalism Ethics in a Changing World. Winkler (1996, 12-20), Saint-Jean (1996, 21-29) and Russell (1996, 30-38) offer different perspectives on journalism ethics. Winkler emphasises the importance of the social functions of journalism. Saint-Jean traces the changing socio-historic dimensions of journalism from the 1960s to 1990s illuminating changes to the profession’s approach to ethics. Nicholas, on the other hand, looks at the need for journalists to defy the principle of truth-telling to perform their role. Russell (1996) identifies one of the key problems with taking a deontological approach to journalism ethics. For that reason, I call for a wider conception of ethics that takes account of action, consequences and motivations. Fieser concludes (2001, 1) that “the field of ethics, also called moral philosophy, involves systematising, defending, and recommending concepts of right and wrong behaviour”. Petrick and Quinn (1997, 42) also emphasise the need for a systematic approach to ethics. They see ethics as “the systematic attempt to make sense of individual, group, organisation, professional, social, market and global moral experience in such a way as to determine the desirable, prioritised ends that are worth pursuing, the right rules, and obligations that ought to govern human conduct, the virtuous intentions and character traits that deserve development in life and to act accordingly”. They conclude that “ethics is the study of individual and collective moral awareness, judgement, character and conduct”. These two approaches reinforce the central tenet of this dissertation: ethics encompass a range of factors which include following rules, not harming others and being of good character, justifying a holistic approach to ethical reform that embraces acts, consequences and individual character.

Just as the conception of journalism has contributed to problems relating to self-regulation, I see the industry’s conception of ethics as also contributing to the problems facing ethical reformers. I have been quite critical of the social contract theories of journalism because they fail to distinguish between journalism, media business and the media corporations that host and support these practices. I am
also critical of the social responsibility views of journalism ethics because they conflate a number of concepts. For instance, Grassian (1992, 3) defines ethics as “the philosophical study of morality…of right conduct, moral character, obligation and responsibility, social justice and the nature of the good life”. Ethics is partially defined by notions of responsibility and obligation. White (1988, 7,8) sees ethics as a way of evaluating human actions and categorising these actions as right, wrong, good bad, moral or immoral, just or unjust. Here ethics are described as a process of evaluation (emerging from conflict). Obviously values (individual, professional and social) frame how individuals view responsibility. Therefore ethics and responsibility are interrelated concepts but they are not definitive of each other. McQuail (1977, 515) notes that the concept of responsibility is complicated by the different kinds of obligation and “alternative ways” of attributing responsibility to the media, for example, the occupational task being performed, the legal obligations, the positive tasks assigned by contractual agreements and the implied obligations through social compact. While ethical viewpoints frame the notion of responsibility they are not definitive of it. In turn, a person’s conception of their relationship with society will affect their ethical viewpoint. Someone who views him or herself as an autonomous individual will view his or her responsibility very differently to a person who sees him or her self as a member of a professional or social community. Therefore the notion of responsibility and what is ethical are framed by a person’s philosophical conception of the individual’s relationship with society.

This discussion highlights that fact that a number of factors (including law and relationships) affect a person’s responsibilities. This leads to my major objection to ethics being described in terms of responsibility or social responsibility: the virtues internal to a practice may be vulnerable to external considerations that can weaken the practice. That is not to suggest practice considerations should dominate public good. In the case of journalism, the public are integral to the pursuit of the practice. In fact, the ways in which journalism achieves the public good are the virtues that are partially definitive of the practice. The problem with social responsibility views of ethics is revealed in the ABA’s approach to self-regulation, where the market (audience) is seen as the public and what is good for the audience becomes good for the public. Social responsibility theories of ethics
do not help an organisation move beyond the market paradigm, where media organisations can argue they have a greater priority/obligation to their audiences because of the closer relationship between them. This view of ethics does not provide a framework by which to continuously encourage ethical behaviour. I see it as a partial description of ethical conduct because of the ideological dominance of the supporting institution.

While there are distinctions between responsibility and ethics, there are also distinctions between responsibility and accountability. Plaisance (2000, 1-9) emphasises the importance of distinguishing between these two concepts. Hodges (1986, 14) explains the distinction this way: responsibility is “defining proper conduct” whereas accountability is concerned with “compelling proper conduct”. Accountability can encourage ethical behaviour by ensuring people fulfil their responsibilities. Therefore, mechanisms put in place to encourage responsibility (rules and principles) and accountability (sanctions) need to be matched carefully if they are to encourage ethical journalism.

Plaisance (2000, 6) believes the “concept of accountability in media studies often has confused what it is to be accountable and what it is to be responsible”. He states:

As a result, the interactional element of being accountable has been diminished or overlooked. What can be called indicators of fallibility or measures of accountability such as use of ombudsmen and corrections are only half of the equation. Given a definition that establishes accountability as a means of compelling responsibility, the concept will continually take different forms based on the philosophical approach used to determine the nature of that responsibility. For those that take a libertarian view of the press as essentially unfettered, the requirement of personal autonomy will then suggest a concept of accountability restricted to how free-press ideals are upheld. A more communitarian approach will necessarily demand broadening of the concept to encompass social and cultural consequences of the exercise of ideals (Plaisance 2000, 6).

Plaisance is articulating the key focus of this study: the vulnerability of journalistic ethics (and notions of responsible and accountable journalism) to the ideological focus of the media corporation and the self-regulatory institutions that host the practice of journalism. As I have illustrated in previous chapters, the
dominant view of journalism is that of an individual who is a member of a professional community bound by common goals and values. However, market and management considerations are also highly influential in the evaluation of what is ethical journalism. This modern liberal view of journalism (with strong neo-liberal influences) has also influenced the industry’s approach to ethics. I believe this has resulted in an over-emphasis on deontological and consequentialist theories of ethics.

This problem is not limited to Australia. Black, Steel and Barney (1995, 41) claim there are (only) two ways to make ethical decisions: “One is to decide what to do by weighing the consequences of your actions. The second is to decide according to the principles of duty. It is tempting to think of these alternatives as mutually exclusive, but in the real world the lines between them get somewhat blurred.” In the current system of accountability in Australia, the codes define proper conduct. The question then arises whether the rules or guidelines reflect those values seen as hallmarks of excellence (virtues). Whether journalists are accountable requires us to ask whether the way in which journalists are held to account for improper conduct can influence journalistic behaviour. This involves consideration of the appropriateness of sanctions for failing to comply with rules/guidelines. But the question as to whether the system of accountability encourages ethical behaviour means looking at a number of issues:

- do the values being enforced reflect the internal goods of the practice?
- is there a supportive framework for continuous improvement of ethical conduct (the manner in which rules and principles have been operationalised).
- can the sanctions imposed influence an individual’s conduct to make ethical choices?

In this sense, ethics are broader than responsibility and accountability. Ethics affect how people view right and wrong, good and bad, what is responsible and the effectiveness of accountability. Responsibility and accountability are part of the ethical decision-making framework but they are not definitive of what is ethical. I argue that to promote ethical behaviour, the framework must go beyond
encouraging responsibility and accountability. Viewing ethics in this way highlights the need for a system of ethical regulation to encourage virtue or excellence of character in addition to encouraging responsibility and accountability within the practice. Thus journalism ethics needs to take account of actions, consequences and virtues of both character and intellect of journalists, the public and the institutions that support practices. But it also means looking at the operations of the self-regulatory bodies and ensuring they offer a comprehensive ethical framework.

This discussion illustrates the need for ethical reform to relate approaches to journalism ethics back to the industry’s conception of journalism because how a journalist views his or her relationship with society will affect his/her view of what is ethical, responsible and accountable. But when evaluating journalistic self-regulation in Australia and its ability to give effect to ethical journalism, it is important to distinguish between these concepts. As I have already noted, responsible broadcasting, as defined by the ABA and the radio and television commercial broadcasting codes of practice, is capable of undermining key journalistic values. So when considering the ability of current codes and self-regulatory processes to encourage ethical journalism, I need to highlight the potential conflicts to emerge between journalistic virtues and the aims of self-regulation. To do this, I further analyse the codes to identify the extent to which the rules, processes and procedures uphold core journalistic values. As previous chapters have illustrated, the dominant view of journalism is that of an individual who is a member of a professional community bound by common goals and values. However, market and management considerations are also highly influential in the evaluation of what is ethical journalism. This modern liberal view of journalism (with strong neo-liberal influences) has also influenced the industry’s approach to ethics.

Australia’s journalism industry appears to have uncritically accepted the deontological and teleological focus of journalism ethics, which could have contributed to the ethical problems now facing journalism. If the aim of accountability is to achieve ethical journalism (and some may question this is the case) organisations like the MEAA cannot simply assume that determinative processes modelled on judicial proceedings are effective in promoting not just
ethical conduct but “virtuous” practitioners because the code offers a “template of virtue” (Warren 2001). I reject the claim that the MEAA code of ethics – which is enforced in its current manner – is a template of virtue. Not because the values it upholds are not virtues; but because the procedures put in place to uphold those values focus journalists on duties and not the character traits essential for virtuous action. This problem is not isolated to the MEAA. In fact, I argue the domination of deontological and rule utilitarian approaches to ethics have limited the ability of self-regulatory processes to encourage ethical practice.

I will now attempt to categorise the rules and procedures employed by codes according to their theoretical approach to ethics. In undertaking this analysis, I plan to explore ideas usually associated with business ethics and practice. Richards states (1997, 79) journalism educators should acknowledge that management and business ethics “are confronting many ethical issues and dilemmas applicable to our field”. He quoted Shaw’s observations (1996, 498; Richards 1997, 79, 80):

On the one hand, business ethics is both applied ethics and applied political philosophy. It cannot avoid addressing larger, systemic questions of economic justice and corporate responsibility, nor can it ignore the fact that moral issues and public policy issues frequently intertwine…on the other hand, business ethics cannot lose touch with the fact that the choices we make are not simply a function of the general moral principles we find most plausible, but of our personal values, our ideals, the identity we are forging for ourselves, the life we aspire to live, and our understanding of our communities, of history and of the goals and potential of human existence.

I have decided to examine ethics from a business ethics perspective in an attempt to reconcile the tensions between the functions of journalism and the role of making money. In 1998, Walkley Award winning journalist Paul Chadwick called for the development of a shared language which takes account of what Leibling describes as the functions and role of journalism: the function is to inform and the role is to make money. In this dissertation I attempt to move towards a shared language of ethics, which may help to address problems facing journalism in the 21st century (1998, 2-9). I believe a part of this is the language of virtue ethics.
7.3 Four approaches to ethics

Fieser (2002) canvasses many approaches to ethics including moral scepticism, moral realism, virtue theory, natural law ethics, social contract ethics, duties and rights, moral reasoning, emotivism, utilitarian ethics. In this section I will not attempt to outline the theoretical history of ethics, instead I borrow from business ethics theorists Petrick’s and Quinn’s approaches. They outline (1997, 42-126) key ethics theories implicitly adopted by managers as deontological, teleological, virtue and system development ethics theories. They argue (Petrick and Quinn 1997, 45) that all four approaches to ethics must be understood and developed within businesses to ensure a full understanding of the moral phenomena. Before moving on to develop this argument, I will outline in more detail the four approaches to ethics that are the focus of this chapter.

7.3.1 Deontological approaches to ethics

Harrison (2001, 48; Fieser 2001, 6) explains that “deontology comes from the word deon, which means duty”. A duty is an obligation, something that is due to someone or morally mandatory. The focus of the theory, according to Harrison (2001, 48) is on what individuals ought to do and not the consequences of the action and therefore it is sometimes called non-consequentialism. According to Fieser (2001, 6-7), there are four forms of deontological (duty) theories: traditional duty theory, rights theory, the categorical imperative and prima facie duties.

Traditional duty theory was a derivative of virtue theory, where the virtues were classified as duties to god, duties to oneself and duties to others and the morality of actions is determined by these duties (Fieser 2001, 6). Duty theory also encompasses the notion of social contract, on which many journalists rely to found their right to freedom of speech (Chadwick 1996, 1998; Stockwell 1999; Schultz 1998). Petrick and Quinn explain (1997, 50) that social contract theories “hold that an action is right if it conforms to the terms agreed upon, conditions, or rules for social well-being negotiated by competent parties”. Duty theories also encompass part of the modern liberal theories, which focus on social justice. Social justice duty ethics theories “hold that an action is right if it promotes the
duty of fairness in the distributive, retributive and compensatory dimensions of social benefits and burdens”. According to rights deontologists, rights are natural (not government generated), universal, equal and inalienable (Fieser 2001, 6). A third form of deontology is Kant’s categorical imperative, which has four formulations:

- act as if the maxim of your actions were to become through your will a universal law of nature;
- act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a mean, but always at the same time as an end;
- act that your will can regard itself at the same time as making universal law through its maxims; and
- act as if you were through your maxims a law-making member of a kingdom of ends (Fieser 2001, 2,3).

Kant’s freedom cannot be derived from state or organizationally imposed rules: his freedom can only be derived morally. Applying Kant’s theory of ethics, the contemporary journalist should be pursuing freedom. The duty to seek autonomy is a journalist’s categorical imperative. But this duty also gives journalists the freedom to be autonomous. A journalist motivated by duty rather than outcomes is an ethical journalist. According to this approach, professional rules set out in self-regulatory codes can be viewed as limitations on journalistic freedom. Merrill maintains (1990, 1997) professional codes and notions of professional responsibility are undermining contemporary journalism.

However, Petrick and Quinn (1997, 50) explain that deontological approaches to ethics have developed to take account of the tension in liberal theory over the negative and positive conceptions of freedom. Duty theories of ethics include negative rights theories which hold “that an action is right if it protects an individual from unwarranted interference from government and/or other people in the exercise of that right (Petrick & Quinn 1997, 50). On the other hand, they also include positive rights theories, which “hold that an action is right if it provides any individual with whatever he or she needs to exist” (Petrick & Quinn 1997,
W.D. Ross (1930, 45) is a contemporary exponent of duty theory, who describes six different duties:

- duties that rest upon acts for which the actor is responsible (fidelity and reparation);
- duties of gratitude that stem from the actions of others (gratitude);
- duties of justice which is a duty to prevent distribution of happiness to those whose personal merit means they do not deserve happiness (Justice);
- duties of benevolence with a view to improving the state of others (beneficence);
- duties of self improvement (self-improvement); and
- duties not to injure others (non-maleficence) (Fieser 2001, 7; Harrison 2001; 53).

Ross attempts to deal with the problem of conflicting duty. He argues duties are *prima facie* in that an individual is obliged to act in accordance with that duty unless a higher duty predominates and to choose between conflicting duties an individual must use insight on a case by case basis (Fieser 2001, 3). So how does an individual develop and exercise that insight? This is where virtue theory helps to fill the gap in ethical reasoning. Instead of viewing ethics as duty, virtue theory focuses on the development of virtues of intellect and character which are the mean between habits of excess and deficiency. (Virtue theory will be discussed in more detail later in this section.)

Petrick and Quinn (1997, 49) explain that deontological ethics theories maintain that “responsibly fulfilling obligations, following proper procedure, doing the right thing and adhering to moral standards determine the ethical value of actions”. A journalist who follows the code of ethics is ethically right regardless of the effect that action could have on the public or his/her sources. But the theory does not satisfactorily explain how a journalist (or any other individual) resolves ethical conflict other than by instinct. I believe instinct is not enough to guide individuals in ethical decision-making and recourse to virtue theory may help us
discover how to implement work practices and processes to encourage virtuous character traits that provide the framework for ethical decision making.

7.3.2 Teleological approaches to ethics

Teleological or consequentialist theories of ethics focus on the outcome of an action (Harrison 2001, 60). Petrick and Quinn (1997, 47) explain teleological ethics theories maintain that ethical value is determined by good ends or results. Utilitarianism is a form of teleological or consequentialist ethics, which has been quite influential on journalism. Major exponents of utilitarianism are Jeremy Bentham (1748-1832) and Mill (1806-1873). Englehardt and Barney (2002, 16) explain that utilitarianism “declares that an action, intention or principle should be judged by the overall immediate outcomes”. Bentham (1746-1832) based his theory of utilitarian ethics on the principle of utility, where every action is approved or disapproved according to the tendency it appears to have to augment or diminish happiness of the part whose interest is in question (Bentham 1907; Englehardt 2002, 18; Harrison 2001, 67).

According to utilitarianism, the ethical value of an action is dependent on producing the greatest good for the greatest number of people (Petrick & Quinn 1997, 48). Adopting this approach to journalism ethics brings the practice of journalism in a technical sense into conflict with the corporate values. The practice of journalism considers ethical value based on its effect on journalists’ ability to provide information while the media corporation determines ethical value from the perspective of maximising investor wealth. Just as there are many aspects of consequentialist ethics, there are categories of utilitarianism. Harrison (2001, 68) draws the distinction between act utilitarianism and rule utilitarianism. He explains:

Act utilitarianism is the proposition that an act is right so long as it provides the greatest good for the greatest number. Rule utilitarianism …says that an action is right if and only if it conforms to a set of rules, the general acceptance of which would produce the greatest balance between pleasure and pain (Harrison 2201, 68).

An example may help to explain the differences in these two approaches. Journalism commentators have struggled with the use of deceptive practices to gather information. Elliott (in Hodges 1988, 29, 30) refers to four degrees of
deception. She identifies these, ranking them from the most acceptable to the most heinous. They are:

1. A primary lack of identification. According to Elliott (in Hodges 1988, 30) lack of identification is the most acceptable form of journalistic deception stating that journalists are under no duty to disclose their identity when checking out every story. But she states that a source’s right to privacy gives rise to a right to know the identity of a reporter once an interview is commenced.

2. Passive misrepresentation, where a journalist is present at a meeting where participants do not realise there is media coverage. Elliott (in Hodges 1988, 30) states journalists are under a duty to provide identification as soon as practicable.

3. Active misrepresentation, which Elliott (in Hodges 1988, 30) claims should be condemned because of the “feelings of betrayal that inevitably arises and because of the diminished trust it produces”.

4. Masquerading, which Elliott (in Hodges 1988, 30) claims is generally eschewed because if “the great damage it does to the trust that people need for general societal relationships and for relationships with journalists in particular.

Here, she is employing a consequentialist approach to ethics, where she measures the morality of the action by the effect it produces and if it produces the greatest good for the greatest number of people then the action is ethical.

Hodges (1988, 30) criticises Elliott’s thesis as fundamentally flawed for two reasons:

- at all levels of deception the intent is the same “to gain some advantage by deception by not letting the other party know exactly what is going on; and
- the source/subject is equally deceived and equally taken in at all levels.

He argues (1988, 31) that “the journalist’s decision to deceive by passive means, by not telling, is every bit as active or deliberate as the decision to deceive by
active means”. However, Hodges claims (1988, 31) that all levels of deception are justifiable by the same rules, which include:

- the information sought must be of overriding public interest (Hodges 1988, 31);
- there must be no reasonable likelihood that comparably accurate and reliable information could be obtained as efficiently through convention investigative techniques (Hodges 1988, 31); and
- would the deception seriously endanger innocent people? (Hodges 1988, 33).

Hodges opts for a deontological approach to justifying journalists employing deceptive practices when gathering information for publication, prescribing rules which determine whether the practice is ethical. But Hodges’ approach is not deontological in the Kantian sense because the duty not to deceive is not a categorical imperative, as it cannot be universalised. Exceptions can occur where there is an overriding public interest. Hodges’ approach to journalists using deception fits within the W D Ross (1930) deontology (outlined above), revealing the journalist’s duty to act responsibly, out of benevolence, aiming for self-improvement, justice and not injuring others (Ross 1930, 45; Harrison 2001, 53). But there is another way of assessing the ethics of deception: a virtue approach.

### 7.3.3 Virtue-oriented theories of ethics

Virtue-oriented ethics are concerned more with developing good character traits than acting in accordance with moral rules. Good actions flow from virtuous character traits and morality is a matter of being a good person rather than just following rules (Fieser 2002, 14). Petrick and Quinn note (1997, 51) that virtue ethics theories maintain, “that habitual development of sound character traits determines the ethical value of persons”. Harrison (2001, 72) notes that virtues are acquired human qualities, usually derived from habits acquired by experience. The habits are not instinct or unthinking reactions to situations. The virtues are reflective habits, developed by a “threelfold activity of seeing an end, thinking about the means to it and choosing an action” (Sacks 2001, 5). This might be termed “good sense” as opposed to “common sense”…a Gramscian distinction.
Harrison describes the virtues as “excellences of character”, which are achieved by seeking the mean between two vices one of excess and the other deficit. But the virtues are not a process of reasoning towards discovery of what is good. They are a good in themselves. But being virtuous enables “the individual to achieve the good life” (Harrison 2001, 72). The virtues are a means to an end and an end in themselves: the starting and end point in ethical behaviour. The good life (perfection or excellence) is these virtues. Therefore the virtues have characteristics of a duty but they also have teleological characteristics. In this sense, virtue theory has both deontological and teleological characteristics, taking account of motivation, action and consequences by tying ethics to virtuous character. For this reason, I see virtue theory as a more complete explanation of ethics than deontology and teleological theories. But I do not see these theories as alternatives; they need to be considered in conjunction to offer a complete description of ethics. When combined, these approaches will help develop a framework for continuous ethical improvement.

The origins of virtue ethics can be traced to Aristotle (384-322 BCE). Virtue theory is attracting considerable attention in the areas of business ethics (Petrick & Quinn 1997; Dordrecht & Arjoon 2000; Swanton 2001) and to a lesser extent journalism ethics (Dickson 1988; Lambeth 1992). Aristotle (1955, 107-108, W.D. Ross 2000b, 9; Harrison 2001, 73) saw virtue as the mean between excess and deficit:

…[M]oral virtue is a mean …between two vices, one of excess and the other of deficiency…and it aims at hitting the mean point in feelings and in actions. [I]t is difficult to find the mid-point – for instance not everyone can find the centre of a circle; only the man who knows how. So too it is easy to get angry – anyone can do that; or to give and spend money but to feel and act towards the right person to the right extent at the right time for the right reason in the right way – that is not easy and it is not everyone who can do it.

Aristotle distinguishes between two types of virtues: virtues of character and virtues of intellect. Virtues of character include justice, courage, temperance, liberality, pride, patience, truthfulness, wittiness, friendliness, modesty and righteous indignation (W.D. Ross 2000b; White 2003). Virtues develop through regular practice (Arjoon 2000, 5). However, there are four cardinal virtues that are
fundamental to the development of other virtues - courage, justice, temperance and prudence (Aristotle Book 1; Harrison 2001, 73; Arjoon 2000, 5). Arjoon explains prudence in terms of practical wisdom, seen as necessary to practice the other cardinal virtues:

Courage is the ability to face and overcome difficult situations. It is the power to act even when we are afraid. Temperance or self-mastery is the ability to have control over our tendencies to laziness, complacency and reluctance to fulfill our responsibility….Justice describes a situation where one constantly gives others what is due so they can fulfill their duties and exercise their rights and at the same time, one also tries to see that others do likewise. Prudence can be equated to good judgment and right reasoning about people (Arjoon 2000, 5).

Virtues of character alone do not lead to excellence or pleasure. They must be complemented by the intellectual virtues that aid practical wisdom or prudence. Intellectual virtues include theoretical wisdom, science, intuitive understanding, practical wisdom and craft expertise (Kraut 2001, 10). So it becomes evident that prudence is a virtue of character and intellect. As noted earlier, the moral virtues develop as a result of reflective habit – the exercise of intellectual virtue (W.D. Ross 2000b, 1; Sachs 2001 1-5). Sachs (2001, 5) views this reflective habit as being “at work”, which is a threefold activity of “seeing an end, thinking about a means to it and choosing an action”. He concludes: “Responsible human action depends upon the combining of all the powers of the soul: perception, imagination, reasoning and desire.” The virtues of character cannot develop in isolation: they must be developed in conjunction with the intellectual virtues. The intellectual and moral virtues are a mean between two vices, one of excess and the other of deficit. Harrison (2001, 73) depicts the doctrine of mean in the following way:
Figure 13: Harrison’s doctrine of mean

<table>
<thead>
<tr>
<th>Excess</th>
<th>Mean</th>
<th>Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rashness</td>
<td>Courage</td>
<td>Cowardice</td>
</tr>
<tr>
<td>Injustice</td>
<td>Justice</td>
<td>Injustice</td>
</tr>
<tr>
<td>Licentiousness</td>
<td>Temperance</td>
<td>Insensibility</td>
</tr>
<tr>
<td>Corrupted by pleasure</td>
<td>Prudence</td>
<td>Corrupted by pain</td>
</tr>
</tbody>
</table>

Sachs (2001, 7) explains that virtue is a mean because it can only emerge out of the standoff between opposite habits of excess and deficit. He concludes:

In this middle ground, thinking does come into play, but it is not correct to say that virtue takes its stand in principle; Aristotle makes it clear that vice is a principled choice that following some extreme path toward or away from pleasure is right. Principles are wonderful things, but there are too many of them and exclusive adherence to any one of them is always a vice…The origins of virtuous action is neither intellect nor appetite, but is variously described as intellect through-and through infused with appetite or appetite infused with thinking or appetite and reason joined for the sake of something…[O]ur thinking must contribute to right reason and our appetites must contribute to right desire if the action is to have moral stature (Sachs 2001, 7).

This discussion reveals that the virtues are not duties. They are dynamic concepts which emerge from a state of conflict between excess and deficit. What may be virtuous conduct in one situation cannot become the general rule of action because the mean between excess and deficit may require different action when considered in another context of practice. But this dynamic nature of the virtues is not reflected in Harrison’s continuum. One reason for this is it focuses on the virtues of character. The virtues are a mean between excess and deficit of character but virtuous actions are only achieved through virtues of both character and intellect. I see the virtues in the following way:
Figure 14: The dynamic nature of virtues

This diagram illustrates the dynamic nature of the virtues but it also highlights the need for balance between the virtues of character and intellect. Therefore, when evaluating the ability of self-regulatory processes to give effect to ethical journalism, questions must be asked about the ability to enable journalists to acquire habits of reflective practice. It is not enough to prescribe values seen as hallmarks of excellence – a system of self-regulation must put in place a framework to help journalists and their publics to develop the practical wisdom that ensures good judgment. This means striking a balance not only in terms of individual character but also in the intellectual process. Just as not enough understanding is bad; so too is an excess of intellectualising.

The dynamic nature of the virtues has resulted in critics condemning virtue theory as relativistic because different character traits are seen as virtues depending on the context or nature of conflict i.e. between vices of both character and intellect (Whetstone 2001, 5). It is for this reason that virtue theory alone cannot provide a comprehensive framework that encourages ethical conduct. But by taking a system development approach and engaging with ethics in terms of acts, consequences, character and intellect, then this framework can be developed (Whetstone 2001, 9).

Petrick and Quinn (1997, 51) divide virtues into three major types: individual, work and professional character. Each category has “virtues” which determine
ethical conduct. They (1997, 52) identify individual virtues as courage, moderation, justice, prudence, gratitude, sense of humor, discipline, reliability, benevolence, authenticity, caring, sincerity, understanding and wisdom. Work character virtues are competence, creativity, honesty, fairness, trustworthiness, co-worker appreciation, task completion, honor, loyalty, shared work pride, diligence, resourcefulness, level-headedness, tolerance, dependability, civility, empathy, conscientiousness, discretion, patient urgency, cooperativeness and supportiveness (Petrick & Quinn 1997, 51). They explain that professional character ethics ensure that “credentialed expertise, licensed monopoly, self-regulation, collegiality, altruism, trust, truthfulness, autonomy, impartiality, loyalty, independence of judgment and public service determine both the instrumental and intrinsic ethical value of individuals in associational communities”. But they do not distinguish between the virtues of intellect and the virtues of character.

Caution must be exercised when prescribing virtue. By identifying the key virtues in terms of individual, work and professional environments, Petrick and Quinn are moving towards a deontological framework. Virtues are not constant. By setting them down in black and white, virtues become a form of principles. This is the approach taken by the MEAA. It has prescribed what it sees as the key values that underpin journalistic excellence i.e. honesty, fairness, independence and respect for the rights of others. The processes used to operationalise these “virtues” are inflexible, secretive, reactive (complaint driven) and do not explain either the complaint or the conduct of journalists. The attempt to encourage virtuous journalism is marred by the manner in which the virtues are operationalised. If the code is to be a template of virtue, it must be the subject of frequent review and encourage discussion in order to develop the practical wisdom and understanding needed to engage in reflective practice.

This discussion reveals there are two aspects of ethics, both of which must be nurtured to ensure ethical practice: character and intellect. Virtuous character cannot be developed without intellect. Journalism codes of ethics have tended to identify many “virtues” of character in the clauses that prescribe ethical conduct, thereby identifying and reinforcing the character traits of noble journalists as duties. However, I have argued that little has been done in relation to developing
the intellectual virtues needed to develop virtuous character traits. Nor have they attempted to align the processes and procedures adopted with the ethical objectives.

This discussion has briefly outlined the problem that I see as the greatest challenge to journalism ethics: the focus on determinative processes to reinforce journalistic virtues. According to Petrick and Quinn (1997), this is a system development ethics problem – a discussion I will now take up.

7.3.4 System development ethics

Petrick and Quinn (1997, 53, 54) describe system development ethics as maintaining “the supportive framework for continuous improvement of ethical conduct which determines the ethical value of actions”. System management ethics focus on the development of processes and procedures which reinforce good character traits and excellence (the virtues). Personal improvement, organisational and extraorganisational ethics are the major types of system development ethics (Petrick & Quinn 1997, 54). From a system development perspective, the question arising in relation to journalism self-regulation is whether the current system of self-regulation – both formal and informal – provides this framework. I believe it does not for a number of reasons. The determinative approach taken by the self-regulatory bodies is one of the problems. But another problem is the institutional approach to self-regulation. This approach, as has already been noted, has a tendency to weaken journalistic virtues as the competing aims of self-regulation introduce values external to the practice. It results in a further blurring of internal and external goods.

Personal improvement ethics view an action to be good “if it promotes or tends to promote personal responsibility for continuous learning, system holistic development improvement and moral excellence” (Petrick & Quinn 1997, 54). In a sense, this is an extension on virtue theory in that the habits on which virtues are founded must be developed from reflective rather than instinctual experience. The aim of personal improvement ethics is the development of prudence (practical wisdom), which is seen as a virtue of both character and intellect.
Organisational ethics “hold that an action is good if it promotes or tends to promote the formal and informal organisational processes that enhance procedural, outcome and systemic justice, respectful caring and innovation in ethical work cultures” (Petrick & Quinn 1997, 54). The processes and procedures utilised within an organisation must encourage ethical behaviour. Therefore, when considering reform of one aspect of journalism self-regulation, it must be considered in light of the system which must be designed to take account of the whole ethical process, including encouraging responsibility and meeting professional obligations as well as developing reflective habits that ensure the journalistic virtues founding excellence in practice. I have argued the ideological conflict that emerges as a result of institutional approaches to self-regulation suggests to me that self-regulation should be looking at the individual workplaces to offer the greatest chance of influencing ethical behaviour. This is consistent with the view that the aim of journalism business is the integration of internal and external goods: it is the first phase of self-regulation.

Extraorganisational ethics “holds that an action is good if it promotes or tends to promote the improvement of collaborative partnerships and collective global justice creatively in the human and natural environments” (Petrick & Quinn 1997, 55). Reflective habits that ensure virtuous conduct emerge through the dynamic process of resolving conflict (both internal and external). Petrick and Quinn (1995, 55) note that the open systems theory of management promotes real ethical engagement to help develop moral progress. To do this, managers (and self-regulatory bodies) must be flexible and adaptable in terms of people and processes. The processes and procedures adopted by the system of journalism self-regulation (outlined in Chapter 1) do not have the flexibility and adaptability necessary to promote ethical journalism. Later in this dissertation I will propose an alternative model for journalistic self-regulation, which focuses on workplace ethics rather than institutional codes. But first I examine the theories of ethics that have influenced Australia’s journalism codes.

7.4 Which theories of ethics influenced journalism codes?

I have argued that the majority of industry codes espouse modern liberal values. These values are identified as duties set out in the various codes. Some codes
impose duties on individual journalists but others target media proprietors and/or licensees. These duties are to report honestly, accurately and fairly with independence, respecting the rights of others and ensuring individuals have access to complaints processes and the media. The codes do not set out how journalists, proprietors or licensees should resolve problems where duties come into conflict, except to provide that an overriding public interest will justify a breach of any clause, which suggests a rule utilitarian approach to ethics. However, there are many factors which indicate that the approach predominantly taken by self-regulatory bodies is deontological. To help illustrate this point, I will look more closely at the Australian Press Council because it claims that its principles are not duties or rules that bind journalists but guidelines to help journalists perform their roles ethically.

The APC views its role as adjudicating allegations that journalistic ethics have been breached in the publication (or non-publication) of editorial material (APC 2000, 115,116). The APC claims its main focus is on journalism ethics, rather than on responsible journalism or accountability. “It judges this (journalism ethics) on the basis of the Statement of Principles”. The statement of principles specifically says that “the council does not lay down rules by which publications should govern themselves” (APC 1996). There are two important factors, which superficially (at least) suggest the APC adopts a non-deontological approach to ethics. The first is the fact that the principles state they are guidelines and not rules (APC 1996, 1). The second is the predominance of public interest in the council’s handling of complaints (APC 1996, 1). But further investigation of these statements and the APC policy in handling complaints indicates the principles are treated as rules or duties which determine ethical conduct. The APC requires complaints to be couched in terms of a breach of principles. When filing complaints, the complainant must specify the principle it perceived to be breached, with failure to show a breach of principles the most common ground for the APC refusing to deal with a complaint (APC 1999, 121).

The acceptance of complaints (by APC) is based on a prima facie breach of one of the Press Council’s principles. If the executive secretary believes no breach has occurred he will refuse the complaint explaining why the complaint has not been accepted for processing (APC 2001, 104).
Provided these duties are fulfilled, the APC refuses to deal with complaints that may harm individuals. For example, in 2001 the APC refused a complaint about a court report that revealed information about a suicide death. The APC stated, in its annual report, (APC 2001, 105, 106) that the complaint was rejected because “fault (if any) lay with the plaintiff in the paternity suit and with the court in question, not the newspaper”. This attitude towards ethics is not utilitarian. It is definitely deontological in that there is no breach of the principle therefore the report is ethical. It does not consider the existence of moral obligations on journalists to handle the story in a different way. For instance, the publisher may have met its social obligations in a more acceptable way if the story had dealt with the issues relating to the court action.

If a deontological approach is to be taken, then the question arises as to whether the APC principles reflect all of the duties identified by Ross (1930) as individual duties within contemporary society. You will recall Ross’s modern duties include duties of reparation, gratitude, merit (justice), beneficence, self-improvement and non-maleficence. The table below illustrates how these duties are represented in the APC principles.

**Table 20: Modern duties reflected in APC code**

<table>
<thead>
<tr>
<th>Duty</th>
<th>Principle</th>
</tr>
</thead>
<tbody>
<tr>
<td>The duty to keep promises (fidelity)</td>
<td>Clause 4</td>
</tr>
<tr>
<td>The duty to compensate others when we harm them (reparation)</td>
<td>Clauses 2, 9</td>
</tr>
<tr>
<td>The duty to thank those who help us (gratitude)</td>
<td></td>
</tr>
<tr>
<td>The duty to recognise merit (justice)</td>
<td>Preamble, Clauses 4, 5</td>
</tr>
<tr>
<td>The duty to improve the conditions of others (beneficence)</td>
<td></td>
</tr>
<tr>
<td>The duty to improve our virtue and intelligence (self-improvement)</td>
<td></td>
</tr>
<tr>
<td>The duty not to injure others (non-maleficence)</td>
<td>Clauses 1, 3, 4, 5, 6, 7, 8</td>
</tr>
</tbody>
</table>

21 Duties as cited in the Internet Fieser (2001, 3).
This analysis reveals an imbalance in the codified duties, with gratitude, self-improvement and beneficence totally unrepresented and the duty not to injure others being the major focus of the code. One possible explanation for this is that the APC is conflating the notions of ethics, accountability and responsibility. The focus of this organisation is more on responsibility and accountability than journalism ethics. But what is the focus of the other codes?

**Table 21: Modern duties within other codes**

<table>
<thead>
<tr>
<th>Duty</th>
<th>MEAA (Journalist)</th>
<th>CTVA (Licensee)</th>
<th>FARB (Licensee)</th>
<th>ABC</th>
<th>The Age (Journalist)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fidelity</td>
<td>Clause 3, 10</td>
<td></td>
<td></td>
<td></td>
<td>Clause 4.1 b, Clause 10</td>
</tr>
<tr>
<td>Gratitude</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Justice</td>
<td>Preamble Clauses 1,2,4, 5, 6, 7, 8, 9 &amp; guidance clause</td>
<td>Clauses 4.12, 4.1.3, 4.3.2, 4.3.6, 4.3.7,</td>
<td>Clause 2.1 (a); 2.2 c, d, e.</td>
<td>Clause 2.4, 2.5, 4.2 a, 4.2 b</td>
<td>Clauses 1, 2, 3, 4.7, 11, 12, 19, 20, 22, 23 Conflict of interest clauses</td>
</tr>
<tr>
<td>Reparation</td>
<td>Clause 12</td>
<td>Clause 4.3.11</td>
<td>Clause 2.2 a</td>
<td></td>
<td>Clause 5</td>
</tr>
<tr>
<td>Beneficence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-Improvement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-maleficitation</td>
<td>Clauses 1, 2, 3, 4.5, 6, 7, 8, 9, 10, 11 &amp; Guidance Clause</td>
<td>4.1.1, 4.1.3, 4.1.4, 4.3.1, 4.3.3, 4.3.4, 4.3.5, 4.3.8, 4.3.9</td>
<td>Clauses 2.1 a, b, c; 2.2 b</td>
<td>Clauses 2.1, 2.2, 2.3, 2.4, 2.5, 4.1 a, c, d, e; 4.2 a, b; 4.3, 4.4.</td>
<td>Clauses 3, 4, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21</td>
</tr>
</tbody>
</table>

This analysis suggests that Ross’s duties of gratitude, beneficence and self-improvement are deficient in all the codes studied in the sample of codes examined in this thesis. The focus of codes in the sample examined is on not harming others and ensuring people do not benefit if there is no merit (justice). The duties overlooked in the codes tend to be those qualities needed to fulfill communitarian duties of improving conditions of others and promoting community harmony. This analysis supports earlier findings. But there are more disturbing consequences of prescribing virtues, which an example may help to illustrate.
In March 2002 the Australian Press Council dealt with a complaint against a report in *The West Australian* from the Council of Official Visitors, acting on behalf of Kevin Elliott Kenny. The article is set out below:

*Figure 15: West Australian article: “Killer on day trips”*

**Killer on day trips**

*Insane man unguarded*

*By Ben Harvey and Ben Martin*

An insane killer detained at Graylands Hospital after he bludgeoned and stabbed two men to death has been taken on unguarded day trips in Perth for coffee and shopping.

Kevin Elliott Kenny has sat among families at cafes and been swimming – accompanied only by hospital staff. Kenny was ordered to be detained indefinitely for the public’s safety after admitting in court to killing the men at a halfway house for the mentally ill in 1994.

The 24-year-old told a Supreme Court jury in 1997 he believed he was the son of God and the victims were agents of Satan. The Doors song Riders in the Storm had inspired him to kill, he said.

Kenny was found not guilty of wilful murder on the grounds of insanity.

The killing rampage was so fierce and prolonged that a bloodied Kenny paused during the attack to lean against the window and catch his breath before continuing to stab his victims.

A consultant psychiatrist who testified at Kenny’s trial said medication was not likely to prevent a similar episode. Despite this evaluation Kenny has been taken on unguarded day trips outside the secure section of the hospital as part of his rehabilitation.

Graylands chief psychiatrist David Greenberg yesterday defended the hospital’s rehabilitation program, saying people at Graylands were patients not prisoners.

Professor Greenberg said patients in the hospital’s secure area, including those charged with violent crimes, were allowed extra privileges which included the right to go outside the centre. Strict guidelines set out in the Criminal Law (Mentally Impaired Defendants) Act dictate when patients can be let out and under what conditions.

A board of psychology and legal experts, including prison parole board chairman Terence Walsh, decide whether a patient meets the criteria for integration into the community.

“The board’s job is to balance the needs of the community with the rehabilitation of the patient,” Professor Greenberg said. “These people are not criminals. They are patients who are ill and need treatment.”

Integration was a crucial part of rehabilitation, Professor Greenberg said. In the past few years there had been no reports of violence during day trips outside the hospital.

Australian Nursing Federation secretary Mark Olson would not comment on the Kenny case. But he said violence at Graylands was a serious issue for staff. The *West Australian* understands some staff are worried the violence they experience every day will spill on to the streets during a day trip.

Most of the 300 nurses had been assaulted at some stage, Mr Olson said. They felt pressured not to report assaults or pursue criminal charges.

The room in which Kenny killed Kirk Ball, 39, and Albert Gorman, 36, has been described as one of the most horrific crime scenes witnessed by experienced detectives.
The Council for Official Visitors claimed *The West Australian* had breached principles 3, 4, 7 in that the newspaper failed to respect Kenny’s privacy; it had breached confidences regarding his treatment and rehabilitation and it had placed gratuitous emphasis on his disability (insanity). The APC dismissed the complaint because the public’s right to know outweighed Kenny’s right to privacy. The council saw the report as essentially recounting information, which was a matter of public record (the details of the original trial and the “insane” finding). The APC agreed with *The West Australian* that the public had a right to know that a man ordered by the court to be detained for public safety had been allowed into the community “accompanied only by staff, not trained guards” (APC 2002, March, 1). It also rejected the Council for Official Visitors’ claim that article breached confidentiality and placed gratuitous emphasis on the killer’s disability in the sub-headline ‘insane man unguarded’. The APC concluded that the article dealt with a significant public interest and therefore *The West Australian* was acting ethically in publishing this story. It had not breached principle three because an individual’s right to privacy should not prevent publication of matters of public record or significant public interest. Any breach of confidence was overridden by the public interest in the story (Clause 4). The reference to Kenny’s insanity was a matter of public record and significant public interest). The APC adopted a deontological approach where the principles prescribe ethical conduct and, applying the principles, it decided *The West Australian* had acted ethically.

Now I will consider the same problem using a virtue approach to journalism ethics. The “responsibilities” espoused in the codified rules set out in the various self-regulatory codes reflect common values of accuracy, honesty, fairness, respect for the rights of others, access and journalistic independence. These values underpin key journalistic virtues, which I have set out below. The following diagram maps the journalistic virtues of character as set out in the codes.
Does the *West Australian* article achieve journalistic excellence by displaying the journalistic virtues of character identified above? I argue it does not, mainly

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22 Practical wisdom

23 Moderation or self-restraint in action

24 Unrestrained by law or morality, going beyond customary or proper limits

25 Absence of feeling or sensation
because the article has focused too heavily on identifying the public interest and acting according to the APC principles rather than looking at whether the public interest has been satisfied. Applying the press council principles, an individual’s privacy can be ignored if there is a matter of public interest. If the article reports a matter of public interest a journalist revealing essentially private information is acting ethically. The public interest excuses unethical conduct. However, a virtue approach requires the journalist to report the matter in a way that gives effect to that public interest. To be ethical, the reporter and others involved in the publication of the story are committed to journalistic excellence and therefore must display virtues of character and intellect. The journalist (and others in the publication process) must seek the mean between habits of excess and deficit and report (and publish) the matter courageously and truthfully, to give effect to justice while displaying temperance and prudence. I suggest that this has not been done.

The published article does not reflect the mean between habits of excess and deficit. In fact, it is an excess of principles (public interest v privacy, confidentiality and bias) which has contributed to the article’s failure to address all of the matters of public interest. Undoubtedly, there is a public interest in people knowing that an individual like Kenny is being rehabilitated back into the community. There is a real public interest in knowing that he has been granted unguarded day leave. There is a real public interest in the knowing the reasons for his being in the institution. But there is also a real public interest in knowing about the decision processes and the ability of an independent panel to assess the potential threat to the public of an individual such as Kenny being taken on unguarded leave. These matters were not addressed by the newspaper report nor were they raised in the Australian Press Council’s adjudication of the complaint. If the Australian Press Council had looked to the journalistic virtues to help evaluate the ethical conduct of the publishers this problem would not have arisen. Applying the principles, it would have noted there was a matter of public interest, which could justify publication of confidential, biased and private matters. But the council would have gone on to ask the further question of whether the report was in fact truthful, courageous, prudent, temperate and just. The article is not truthful because it does not tell the full story. It is not courageous or just because it
reinforces community fears and misunderstandings between different sections of the community: it hides behind principles. It is not temperate and nor is it prudent.

I argued in Chapter 1 that all the codes tend to reinforce similar values. The table below sets out how the virtues are reflected in the sample of codes discussed in this dissertation.

**Table 22: Mapping the codified virtues**

<table>
<thead>
<tr>
<th>The virtues</th>
<th>MEAA</th>
<th>APC</th>
<th>CTVA</th>
<th>FARB</th>
<th>ABC</th>
<th>The Age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temperance</td>
<td>Clauses 2, 4, 5, 6, 7, 8, 12</td>
<td>Clauses 4, 5, 6, 7, 8</td>
<td>Clauses 4.1.1, 4.1.3, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.3.5, 4.3.6, 4.3.7, 4.3.8, 4.3.9, 4.3.10, 4.3.11, 4.4.1, 4.4.2</td>
<td>Clauses 2(b); 2.2(a-e)</td>
<td>Clauses 2.1 (general programs), 4.1(c-e); 4.4(a-b); 4.3, 4.4.</td>
<td>Clauses 3, 5, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22</td>
</tr>
<tr>
<td>Prudence (Practical wisdom)</td>
<td>Preamble; Guidance clause. Notes a positive duty for ethics education</td>
<td>Preamble No mention of ethics education</td>
<td></td>
<td>Charter identifies roles of ABC, Code preamble</td>
<td>Preamble</td>
<td></td>
</tr>
<tr>
<td>Justice</td>
<td>Clauses 8, 11</td>
<td>Clause 3</td>
<td>4.1.14.1.2, 4.4.1</td>
<td>Purpose; 2.2 (c)</td>
<td>Clauses 2.4, 2.5</td>
<td>Clauses 1, 2, 12, 13</td>
</tr>
<tr>
<td>Courage</td>
<td>Clauses 5, 7</td>
<td>Clause 4</td>
<td></td>
<td>Charter (Independence), 4.1(b)</td>
<td>Clauses 5, 7, 10</td>
<td></td>
</tr>
<tr>
<td>Truthfulness</td>
<td>Clauses 9, 10</td>
<td>Clause 1</td>
<td>4.1.1, 4.3.14.4.2, 4.5 (identifying limits of obligation.</td>
<td>Clauses 2.1(a), (c), 2.2 (b)</td>
<td>Clauses 4.1(a), 4.2 (a-b)</td>
<td>Clauses 3, 4</td>
</tr>
</tbody>
</table>

This table suggests that most of the codes studied in this sample do uphold values that reflect journalistic virtues. The CTVA and FARB codes show obvious deficiencies in terms of the cardinal virtue of prudence. They make no specific mention of journalism, treating it simply as part of the business of providing news and current affairs programs. The ABC does not make specific mention of the journalism but the code and the Charter do reflect values that give effect to virtuous action if motivated for the right reasons. It is interesting to note that the MEAA code is the only code to identify a journalistic duty to education. The
“practical wisdom or prudence” referred to in the other codes is simply a description of the roles performed by journalists: a means of identifying and unifying a journalistic community. The preambles, which describe the underpinning values of journalism, do add to the practical wisdom of those that subscribe to them. But that contribution is limited to articulating the codes’ ideological foci.

This suggests that many of the values identified by the codes encourage the virtue of temperance. It is the most frequently represented “virtue”, with justice, courage and truthfulness rating only slightly higher than prudence with some of the codes. This could be problematic from a virtue theory perspective, because the thin emphasis on prudence suggests that journalists may lack the practical wisdom needed to understand how to exercise the other virtues. Codification may exacerbate the problem, with journalists seeing virtue as the mean between two principles. If journalists lack wisdom, they may lack the intellectual skills to correctly identify the mean between excesses of two vices, allowing external goods to sublimate internal concerns. Thus the values seen as hallmarks of journalistic excellence could be weakened. The imbalance in the codes suggests too great a focus on temperance and insufficient focus on the need for prudence (practical wisdom).

This problem, combined with the determinative processes adopted by most of the self-regulatory bodies (as identified in Chapter 1), indicates the virtues of character are being transformed into duties. This changes the focus of ethical conduct from the action and motivation for that action to the rule. Codification of “virtues” changes the focus of ethics from what is good to whether an individual’s actions are proper (Fieser 2002, 14). In his study into Philosophy in the Trenches, Plaisance (undated) adopts this perspective on Aristotelian ethics. When testing the philosophical approaches to particular scenarios, Plaisance defined an Aristotelian ethics as finding the balance between two extremes, such as between invasion of privacy and providing full disclosure and finding the middle ground between being overly aggressive and failing to cover all aspects of the story. This approach sees virtue as the mean between two competing principles: privacy on the one hand and truthfulness on the other. A more correct coding in relation to the commitment to respecting personal privacy would be to ask whether the
publication was prudent, courageous, just and temperate, thus revealing the cardinal virtues. By taking this view of virtue, the publication is evaluated from the perspective of whether it gives effect to journalistic excellence, rather than principles. This means the focus of ethical decision-making takes account of consequences (ends) and actions (acts) as well as motivations.

By prescribing proper conduct, journalism has moved towards a legalistic, duty-oriented approach to ethics where the rules define what is good and bad. It also means that decisions about unethical journalism are determined according to the rules. This, in turn, shifts the emphasis from good and bad journalism to whether the actions of journalist/publisher comply with the rules. In this sense, unethical conduct becomes an issue only when a complaint is received. If no complaint is received, there is a presumption that the conduct is ethical. If a complaint fails because it does not fit within one of the rules, the presumption is the conduct is ethical. A complaint about unethical journalism must identify a breach of the code; therefore the determination may not be able to focus on the entire problem or the “ethics” of the action. The result is a partial view of both ethics and journalism. It focuses attention on one aspect of journalism (a story or a particular journalist or publisher) rather than the process of journalism. When examining the complaint, the self-regulatory bodies look at the act (the subject of the complaint) and in some circumstances take account of the consequences of the action but they ignore the motivation for the action. This approach reinforces a view of journalism as a product offered for consumption, rather than a social process essential to self-identity within modern society.

The complaint-driven focus of self-regulation tends to polarize the parties to the complaint, forcing them to take sides rather than work though the ethical issues arising from all aspects of the dispute including the conduct of the complainant. It fails to actively involve the public in the journalistic process seeing them only as consumers of news. If members of the public are viewed as part of the journalistic process then their conduct also becomes relevant to the question of ethics. Their actions or lack of action may in fact contribute to the perceived ethical issue. If ethics were viewed in this way, it would be possible to utilize the self-regulatory process as an opportunity to explain actions rather than justify what has been done. This adds to the practical wisdom of both journalists and the public. The
need for self-regulation to develop a dialogue with the public is essential, if the virtues of self-regulation as a practice are to be preserved conceptions of media participation must be expanded. By incorporating an understanding of virtue, self-regulation will resist weakening of its internal goods.

The prescription of excellence and the polarisation of parties results in an additional problem for journalism as a practice – its failure to encourage journalists and other stakeholders in the journalistic process to engage in reflective practice. The appropriateness of conduct in the current system of self-regulation is predominantly determined from a journalism perspective, overlooking the community context in which the journalism has originated. This tends to reinforce a universalized conception of journalism, which does not reflect the community in which it is operating. The professional narrative dominates the community narrative. Individuals, who rely on information from journalists to form opinions about public and private issues, are casting those decisions from the professional narrative perspective. This view is borne out by Schultz’s (1998) findings that journalists rely on other journalists to identify the public interest. Social responsibility becomes what the journalists see as responsible rather than what the public sees as responsible. The dominance of the “professional” dialogue gives journalism legitimacy, which is enhanced by the codes that describe journalists’ relationship with society in terms of a social contract and social responsibility. But this legitimacy is founded on an illegal contract because journalists are contracting with themselves. The social compact described in the codes is between journalists and their profession not the wider public.

This approach has a tendency to universalise professional approaches to ethics and public interest, marginalizing sections of society and limiting diversity. Public interest becomes an abstract concept, divorced from the realities of the communities in which journalism is operating. But there is another deficiency in the current self-regulatory system and the journalism industry in general and that relates to the development of intellectual virtues, essential to ensuring journalists employ the right reason when deciding how to act. How do the codes or the journalism industry in general encourage theoretical wisdom, intuitive understanding, practical wisdom and craft expertise? The emphasis of the codes and the industry in general is on whether the conduct is proper rather than the
process by which individuals develop reflective habits that enable them to understand and achieve journalistic excellence.

Virtue theory may help to redress some of the shortfalls in the current approaches to self-regulation because it is personal (Whetstone 2001, 4). If journalism ethics focus on whether the actions of journalists reflect the character traits seen as hallmarks of journalistic excellence, individuals and organisations cannot hide behind codes and principles to justify ostensibly unethical conduct. A virtue approach to ethics makes journalists look at the “motivations of the actor”, factors infrequently taken into account when analysing matters of public interest and what is ethical journalism (Whetstone 2001, 4). While internationalisation has brought about much debate about universal values, virtue theory ensures ethical decision-making is taken in the context in which it occurs. This highlights two important factors which have not really been taken into account in the current approach to journalistic self-regulation. The first is the effect of “the environment” on the actor (Whetstone 2002, 4). This means considering whether self-regulation should focus on workplaces or institutional means of addressing journalism ethics. It should be a combination of both, but these approaches should be aimed at two levels. First, any system of self-regulation should focus on the key values that underpin excellence in journalism practice (not the external goods of business or media corporations). But more importantly they should look at how journalists derive the “practical wisdom” prudence by which to exercise those virtues. This means looking at how the industry’s understanding of ethics is derived (the focus of this study). Journalism education – at universities, within workplaces and individually – should aim to provide a framework by which journalists should be continuously encouraged to act ethically. This may require some formal intervention to ensure media corporations are bound to the values germane to journalism to prevent further marginalisation of the practice. Finally, by incorporating a virtue approach to journalism ethics the industry will be taking a complete view of ethics, rather than focusing on actions and consequences. Whetstone argues:

By requiring the actor to seek to understand himself or herself as a person, complements other discipline addressing human behaviour. As critical as culture and environment are, they constitute only part of the contextual problem. The
perspective of virtue, because it concerns the nature and normative behaviour of humans, also points to questions of philosophy and theology beyond the normally accepted sphere of social science (Whetstone 2001, 5).

Virtue theory highlights what I see as the mistake made by many journalism academics in addressing the question of ethics. That mistake is asking the question as to whether the ethical journalist is an isolated individual or a member of a wider community albeit a professional, dialogical or mediated community. Journalists are all of those things and when making ethical decisions they must take account of this. They must engage in ethical decision-making at all levels – the individual, professional and social. His or her identity derives from the conflict at all of these levels. This individual identity is derived through a process of discord and unity across these “beings”. Ethical values and virtues emerge through a similar process of conflict – the emergent tradition.

By adopting a system of self-regulation that acknowledges this – by taking what Whetstone describes as a tripartite approach to ethical reform – journalism may start redressing many of the external pressures that are undermining the practice. A holistic approach to journalistic self-regulation that takes account of actions, consequences and character will move the industry towards reflective practice – a state essential to the restoration of quality journalism. But I believe the industry needs to go a step further than Whetstone’s tripartite approach. Journalism needs to address the intellectual virtues as a separate issue and develop frameworks that encourage ethical reflection, which equips journalists with the practical and theoretical wisdom to understand the conflict that underpins ethical decision-making in contemporary journalism. This means taking a system development approach to ethical reform and looking at how the industry views itself and the notion of ethical journalism.

Information is integral to modern identity. Therefore, journalists can no longer be viewed as isolated individuals. But at times individual, institutional and social values may conflict, requiring journalists to reject accepted practices (and ostensibly challenge professional values) in order to preserve the qualities seen as definitive of journalistic excellence. Only by actively engaging in this process of discord and unity can journalistic tradition evolve. And only through a process of
evolving tradition can journalists understand their identity in contemporary society. I have argued the modern liberal conception of journalism has contributed to our self-regulatory scheme ignoring what virtue theory sees as a crucial aspect of ethical development: the intellectual virtues. In the next chapter, I will offer an alternative model of journalistic self-regulation that attempts to address the shortfalls identified in this study.
Chapter 8

Journalism ethics: An alternative model

8.1 Introduction

In the preceding chapters I have mapped a theoretical framework for evaluating the system of journalism self-regulation in Australia. Like the Brennan Committee that reviewed journalism ethics to offer a revised Media Entertainment Arts Alliance (AJA) code of ethics (1997), I believe there are prior questions that must be considered before the industry can construct a system of self-regulation that encourages ethical journalism. The committee founded its review of journalism ethics on an analysis of what journalism is. It offered a view of journalism that relies heavily on implied social contract theory and the notion of social responsibility, where journalists derive rights through the public they serve. While this is a good starting point for the inquiry into the roles of journalism in contemporary society, I have argued throughout this study that the Brennan Committee’s views of journalism do not go far enough. I have attempted to redress what I see as the shortfalls of the committee’s review of ethics by postulating a theory of journalism that describes what it is, how it is done and what it should be. By engaging with these fundamental questions through the theory of journalism as practice, I offer a framework for evaluating the ability of the current system of journalism self-regulation to give effect to ethical journalism.

My critique of current approaches to theorising journalism is founded on the notion of individual identity. This is one of the prior questions which must be addressed in order to offer a complete theory of journalism that describes what journalism is, how it is done and what it should be. I have argued that individual identity – derived from a process of discord and unity between individual values and the social context in which the individual finds himself or herself – affects the priority of values that underpin journalistic excellence. In this sense, I have attempted to grapple with what has been described as one of the key ethical problems facing journalism: the extent to which the ethical journalist is an isolated...
individual or a member of a wider community (Black et al 1997, v). I concluded that the ethical journalist can be all of these things depending on the context in which he or she is operating. For instance, in times of crisis the ethical journalist may have to give less value to personal and professional values and greater value to the needs of the community. At other times, the ethical journalist may have to go against professional values in order to offer a diversity of views. This is one of the reasons why the modern liberal view of the ethical journalist being a part of a professional community can undermine ethical journalism.

These are the issues I have canvassed in this study, attempting to position the dominant views of journalism (which in turn influence what we perceive as being ethical journalism) in the context of classic liberal, modern liberal, neo-liberal and communitarian philosophical frameworks. Using the language of a representative sample of journalism codes, I have argued that overwhelmingly, the dominant conception of journalism reflects a modern liberal ideology, where the journalist is a member of a professional community bound by a common goal of responsible journalism. This view has become accepted by academics and journalists but it is particularly prevalent within the system of journalistic self-regulation. In this sense the individual journalist surrenders a degree of individual liberty, agreeing to comply with professional rules and guidelines that define “responsible journalism”. The notion of responsible journalism has become synonymous with ethical journalism. This is another part of the problem for reformers.

Applying the theory of journalism as practice to the system of journalistic self-regulation, I have suggested the problems facing reformers are exacerbated by the ideological conflicts between the profession, the corporations and the organisations that oversee standards of journalistic conduct. It also has been noted that market considerations are increasingly being taken into account in determining what is professionally and organisationally viewed as responsible journalism. Analysis of the processes, procedures and interpretations of the codes has revealed that the market-oriented views of neo-liberal ideology are affecting how journalism is defined and what is seen as ethical journalism.

At this point it is important to stress I am not criticising the application of these theoretical frameworks generally. My criticism is focused on their application to
journalism. I believe I have illustrated throughout this study that market theories and theories of social responsibility do not fully describe what journalism is, how it is done and what it should be. In this sense, they do not offer a complete theoretical framework to evaluate what is ethical journalism because they do not reveal the underlying social policy issues that need to be addressed by a system of self-regulation. I would go further to argue that the application of these theories to the journalistic context has created many of the social policy issues that now need to be addressed by a revised system of self-regulation. By using a grounded theory approach, I have sought to postulate a praxis-driven theory of journalism as practice. I will use that theoretical framework to critique the Senate Select Committee’s model for reforming journalistic and media self-regulation in Australia (Commonwealth of Australia 2000).

8.2 The system of journalistic self-regulation and proposed reforms

Chapter 1 outlined the current system of self-regulation, which comprises a range of organisations that oversee a variety of codes. Much of journalism self-regulation is medium-specific, as the diagram (Commonwealth of Australia 2000, 131 fig 6.1) following depicts:
This reveals the system of journalistic self-regulation sits within a wider media environment. The MEAA and APC deal with only journalistic related issues. The MEAA deals with complaints about individual journalists, while the APC deals with complaints about publishers. Apart from workplace codes, all codes of ethics and codes of practice are ultimately overseen by independent organisations, however, the first phase of the dispute resolution process requires complainants to take their complaints to the editor or producer. The ABA deals with media issues other than journalism, including programming and licensing issues relating to the Australian broadcasting and Internet industries. In a 2003 review of the institutional arrangements for the Australian communications and broadcasting industries, a Department of Communications, Information Technology and the Arts Discussion Paper recommended the creation of a single agency with responsibility for broadcasting, telecommunications radio-communications and
online regulation. Thus the ABA would be merged into a larger institution that would deal with a range of issues from news and current affairs to telecommunication issues. The technology and practice issues would become completely blurred.

In April 2000, the Senate Select Committee on Information Technologies (Commonwealth of Australia 2000, fig 6.2) offered the following model for reforming the system of media self-regulation:

*Figure 18: Proposed changes to self-regulation*

- **Complaint**
- **Toll-free phonecall**
- **Media Complaints Commission**
  - Will first encourage complainant to seek redress through the editor/producer
  - Refer the complaint to appropriate sector
  - Will assist with lodging of complaints
  - Maintain a database of the number & types of complaints received and their resolution
  - Will ensure complaint is dealt with efficiently
- **Print media/editor**
- **Television/producer**
- **Radio/producer**
- **Internet/NetWatch**
- **Advertisement**
- **APC Statement of Principles**
- **ABA Current industry based codes of conduct**
- **ASB**

**Media Complaints Commission Adjudication Committee**

May impose additional, non-pecuniary sanctions in specified cases.

Tripartite structure: three industry representative, three government and three community representatives & statutory appointed chair (making it four government representatives).
This proposal builds on the existing self-regulatory structure. The important point to note is that the MEAA has been omitted from the framework. In the revised model, complaints against individual journalists would be considered in the context of the wider publication. The focus of accountability moves from the individual journalists to the media publications in which journalists are involved. The MEAA would sit outside the self-regulatory process. From a classic liberal perspective, this approach is problematic as it negates the notion of journalists as individuals, treating them only as members of a profession, industry or market. This reinforces the modern liberal and neo-liberal perceptions of journalism. From a modern liberal perspective, the ethical journalist is a member of a medium specific industry. This approach does acknowledge the reality that journalism is not an individual act; that it is a process involving more than one individual. In this sense, the proposed reform acknowledges a reality of contemporary journalism. But given the issues identified in relation to the ABA and APC in previous chapters, the proposed model is highly vulnerable to market values being used to evaluate the quality of journalism.

The proposal recommends retaining the current self-regulatory bodies (with the exception of the MEAA). However, it incorporates another self-regulatory institution – the Media Complaints Commission – to oversee the regulatory scheme. It would assist complainants to seek appropriate redress for their complaint and the lodging of a complaint. The MCC would also collect data in relation to complaints and their resolution and monitor the system for efficiency. Composition of the MCC on the face of it appears representative with three industry (media) representatives, three community representatives and three government representatives plus a statutorily appointed chair. Unless the independent chair is appointed with consent of the public and media, the position could be perceived as another government representative. There is another problem with the commission’s composition: there has been no attempt to distinguish between corporate functions of the media and the practices of journalism, media business and advertising. A more equitable representation would include delegates from the practice complained about and the media corporation that hosts it.
The Senate Select Committee (Commonwealth of Australia 2000, 133, 134) identified a number of benefits arising from the MCC. First it offers a “one-stop shop” for complaints thereby simplifying the scheme. It provides resources (but no funding arrangements were identified) to help complainants identify where to lodge complaints and to help prepare complaints. It permits specific media industries to self-regulate but can impose stricter sanctions on organisations that breach their codes. So how do these schemes measure up in terms of self-regulatory practice? This issue has been the focus of another government inquiry. In 2000, the Taskforce on Industry Self-Regulation undertook a nationwide investigation into self-regulatory practice. The question remains whether the current and revised schemes meet standards identified by that inquiry.


The Taskforce on Industry Self-Regulation (2000a, 4) noted that there was no single model for self-regulation. Because of this, it refused to identify a checklist of features of good self-regulation because each scheme needed to address industry-specific problems. In fact, it saw this as one of the challenges facing industry self-regulation, concluding that good practice in self-regulation involves applying an appropriate scheme to a specific market failure or social policy objective (Commonwealth of Australia 2000f, 1). Ascertaining which scheme should be applied will depend on the nature and risk of the market failure and the consequences of no action. In other words, there is no one model for self-regulation. Nonetheless, it is possible to identify common characteristic of successful schemes.

Good practice in self-regulation is built on two principles. First, the scheme must address the industry-specific problems and objectives and second it must offer an effective “minimum solution” (Commonwealth of Australia 2000f, 1). Most of the codes that relate to journalism have grappled – to varying degrees – with the industry-specific problems facing journalism. I have suggested that the debates around these problems have been based on particular conceptions of journalism that do not fully describe what it is, how it is done and what it should be. This level of theoretical abstraction is necessary in order to fully understand industry problems and thereby effectively critique its ability to give effect to ethical
journalism. The Senate Select Committee’s report, titled *In the Public Interest: Monitoring Australia’s Media* (2000, 1-16), tends to accept the view of journalism as a business that has particular social responsibilities and privileges. To effectively address the industry-specific problems of journalism and the media corporations that support journalism, reform processes need to take account of the ideological tensions across the industry. The MCC proposal does not address this problem because it does not distinguish between journalism, media business and the media corporations that support these practices. Therefore, the MCC reform proposal has not met the first criterion for good self-regulatory practice: addressing the specific problems facing the industry it is trying to regulate.

The taskforce on self-regulation also noted that a self-regulatory scheme must be an “effective minimum solution”. But the minimum solution proposed is couched in terms of market needs, concluding that “good practice in self-regulation can be understood as significantly improving market outcomes for consumers at the lowest cost to business” (Commonwealth of Australia 2000f, 1). To achieve these aims, industries should address these issues:

- consult with industry, consumers and government;
- increase industry covered by the scheme;
- ensure documents relating to the scheme should be easily understood;
- increase awareness of the scheme in terms of rights, obligations and duties and how to lodge complaints;
- install a strong administrative body that can identify issues, collect data;
- monitor the scheme, enhance credibility and monitor costs;
- maintain data as indicators of systematic issues;
- enhance transparency of processes and procedures;
- include appropriate dispute resolutions to redress complaints;
- include a range of sanctions;
- manage risk of anti-competitive practices involved in scheme;
- monitor and review the scheme; and

The MCC model, identified by the Senate Select Committee, appears to have taken account of these recommendations when suggesting the inclusion of a Media Complaints Committee into the current system of self regulation. The table depicted below identifies the strengths and weaknesses in these schemes based on the taskforce’s criteria. This table was developed from public documentation provided by the self-regulatory bodies and the Senate Select Committee’s recommendations. Therefore it reflects how the public would view the system of self-regulation and the revised model.
Table 23: Best practice characteristic of codes and MCC

<table>
<thead>
<tr>
<th>Taskforce</th>
<th>MEAA</th>
<th>ABA</th>
<th>APC</th>
<th>The Age</th>
<th>MCC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation</td>
<td>Formal review with public, media, business, media owners, journalists and government</td>
<td>Formal &amp; informal, journalists, public, media business, media owners, government</td>
<td>Formal &amp; informal, journalists, public, media business, media owners, government &amp; complainants</td>
<td>Informal with journalists, audience, media business and owners &amp; complainants</td>
<td>Formal &amp; Informal but government focused</td>
</tr>
<tr>
<td>Coverage &amp; publicity</td>
<td>Not well publicised except in relation to journalists</td>
<td>Well publicised to broadcast audience</td>
<td>Well publicised to print audience</td>
<td>Not well publicised, even to audience</td>
<td>Recommendations for publicity &amp; access (toll-free phone)</td>
</tr>
<tr>
<td>Awareness of scheme</td>
<td>Scheme not well publicised in media</td>
<td>Industry schemes required to publicise</td>
<td>Advertises to public Sanctions involve publicity</td>
<td>Not well publicised</td>
<td>Recommendation for strong publicity</td>
</tr>
<tr>
<td>Clarity of documentation</td>
<td>Journalists’ obligations clear. Consumer obligations not stated</td>
<td>Document very long &amp; complicated. Legalistic language</td>
<td>Publishers’ obligations clear. Consumer obligations not stated</td>
<td>Journalists’ &amp; managers’ obligations clear. Consumer obligations not stated</td>
<td>Provide interpretative service to complainants</td>
</tr>
<tr>
<td>Complaint scheme</td>
<td>Well publicised on website.</td>
<td>Well publicised on TV, radio and Web sites</td>
<td>Well publicised in newspapers &amp; website</td>
<td>Not well publicised but available on web search</td>
<td>Provision for publicity and advisory service to complainants</td>
</tr>
<tr>
<td>Education schemes</td>
<td>Poor</td>
<td>Poor</td>
<td>Attempts to educate public and future journalists</td>
<td>Very poor</td>
<td>Recommendation for educative function</td>
</tr>
<tr>
<td>Administration</td>
<td>No data collection that is available to public Lack of transparency</td>
<td>Data maintained and reported to public via annual reports Limited transparency</td>
<td>Data maintained and reported to public in annual reports Limited transparency</td>
<td>No formal data maintained. No real transparency</td>
<td>Recommended to maintain data</td>
</tr>
<tr>
<td>Complaint handling procedures</td>
<td>Closed hearing Reports unavailable.</td>
<td>Public hearings Reports available</td>
<td>Closed hearings Public report</td>
<td>Closed process Possibility for report (but at publishers’ discretion)</td>
<td>Centralised process</td>
</tr>
<tr>
<td>Range of sanctions</td>
<td>Limited sanctions</td>
<td>Range of sanctions</td>
<td>Very limited sanctions</td>
<td>Sanctions not specified</td>
<td>Increased sanctions but not specified</td>
</tr>
<tr>
<td>Monitoring &amp; review</td>
<td>Formal reviews available</td>
<td>Formal &amp; informal</td>
<td>Formal &amp; informal</td>
<td>Informal</td>
<td>Recommendations for formal &amp; informal review</td>
</tr>
</tbody>
</table>

This analysis suggests that the current system of self-regulation does not meet the common elements of good practice identified by the self-regulatory taskforce. One reason for this could be the various bodies that oversee journalistic ethics. The
revised model does meet the standards of good practice in self-regulation set out by the taskforce. Therefore on the face of it, the MCC model meets the minimum standards of best practice in self-regulation. But when looking at the specific problems facing journalism I have outlined, there are some inherent problems with the proposed scheme. The first point relates to the nature of the system put in place and the aims of self-regulation. The taskforce noted that industry regulation must be particularistic (not universal), targeting specific market failure or social policy objective. I believe that the ideological conflicts within journalism self-regulation can be addressed more realistically at the business level. Given the diverse range of media within Australia and the diversity of views that need representing, a workplace-oriented system of self-regulation can deal with the specific market and social policy issues of those media. And, according to the theory of journalism as practice, the role of media business is the integration of competing goods, thus making it the first phase of self-regulation. From this theoretical perspective, the system of journalistic self-regulation should be constructed on a workplace-based model rather than an institutionally-driven model. This is my first criticism of the current system of self-regulation of journalism and of the Senate Select Committee’s revised model.

The analysis and theory building process I have offered throughout this dissertation has sought to identify the nature and risk of market failures and the consequence of no action to social policy issues in relation to journalism. I did this by examining the various codes within the self-regulatory system and reviews of these schemes. These data have been used to construct a theory of practice, which relates to journalism, media business and self-regulation. The practice-institution distinction identified in my revised theory of journalism helps to identify the real issues facing these practices. By applying that approach, I will now attempt to highlight some key weaknesses in the current schemes, which do not address the specific market failures and social policy issues relating to journalism. When applying my theory of journalism as practice, problems emerge in relation to the MCC model. At this point, I would like to stress that I do not presume to offer solutions to an extremely complex problem. Instead, I seek to identify an alternative pathway to reform. By using my approach to journalism, I
offer a theoretical framework that provides insights into how the system of journalistic self-regulation can be reformed to help encourage ethical journalism.

8.4 Why is change needed from a practice perspective?

I have argued that the dominant view of journalism as a profession, bound by a commitment to social responsibility, has promoted a paternalistic approach to journalism ethics where individuals devolve responsibility for ethical decision-making to organisations. These organisations prescribe minimum standards of conduct to encourage professional accountability (usually to the professional organisation, rather than the public). The determinative approaches adopted by these bodies in dealing with complaints sees the codified values being used as a mechanism for justifying and legitimising journalistic conduct rather than encouraging ethical journalism. I have argued the market-orientation of journalism and the acceptance of journalism as a commodity have distorted the industry’s approach to journalism ethics, potentially weakening the values that underpin journalistic excellence. Where the market dominates the industry’s conception of journalism and what is ethical journalism, relationships between audiences and the business of journalism can take priority over the relationship between information produced by journalistic processes and the general public. Thus the overall aim of journalism in terms of promoting dialogue and to permit the public to form reflective opinions is narrowed by journalists giving people what they think the audience wants.

The modern liberal conception of journalism sees journalists looking to the other journalists to determine what is of public interest. Schultz concluded:

The results presented in this section highlight the limits on news gatherers’ ability to know, understand and represent public opinion. The results also suggest that the claims to professional autonomy by many of the journalists surveyed have not been accompanied by efforts to enhance responsiveness to the public. Indeed the process of communicating with the public was considered by many of the respondents as an onerous aspect of their work. Conversely many of the journalists surveyed demonstrated that other news organizations and journalists had a major impact in their understanding of public opinion and their decisions about what to report and how (Schulz 1998, 156).
This supports my conclusions that the modern liberal view of journalism and the professional notion of responsible journalism can contribute to the dilution of journalistic ethics. I would like to reiterate that it is not the values of social responsibility that are problematic. When considered in isolation, the values reflected in the code do address many of the key values seen as hallmarks of journalistic excellence. Much of the problem lies with the way in which these values are “operationalised”. Notions of social responsibility have been embedded in journalistic culture via a diverse set of codified rules and principles. These codes set out minimum standards of conduct. Some codes claim to be guidelines only, but the determinative nature of the processes and procedures put in place to uphold those minimum standards gives these guidelines added value. While adding value to minimum standards, if enforced too rigorously, codes have the potential to devalue key journalistic virtues because they are perceived as unobtainable in the current media environment, where corporate goods measure success. By strictly interpreting codes that set minimum standards, self-regulatory bodies can foster a professional cynicism towards immeasurable and unattainable goals. When this occurs, idealism becomes a critical label rather than an inspiration for better and more ethical conduct. The journalistic “virtues” seen as the hallmarks of journalistic excellence can be discounted because it is impossible for journalists to achieve them. Relying on codes to define journalism and map professional ideals runs the risk of trapping ethical reasoning into a framework of minimum standards that potentially could discourage ethical conduct.

By offering a theory of journalism as practice and acknowledging the crucial role of particular values in distinguishing journalism from other forms of professional communication, I seek to re-introduce journalistic ideals into the contemporary debate on journalism ethics. In fact, I argue that unless journalism re-embraces “journalistic virtues”, its future looks bleak because its quality will be evaluated from the minimum standards espoused by industry codes. Minimum standards may become entrenched as journalistic ideals. Where this occurs, excellence in journalism will be devalued. Overuse of determinative approaches to upholding codes increases the risk of this occurring.

While mediation is utilised in the current system of self-regulation, that mediation process relies on complaints being generated. There is little opportunity, except at
a workplace level, for journalists to initiate complaints or seek advice on how best to handle a story. These problems are usually dealt with in-house. In previous chapters, I have highlighted that much of the ethical training and education has been devolved to the workplace and universities. I also have identified the workplaces as the nexus of conflict between institutional goods and the internal goods of practice. Despite this, editors (and editorial managers) are seen as the mediators/arbiters of what is ethical. While editors and editorial managers are indeed highly respected journalists, they nevertheless bring to their craft a management perspective. According to my theory of journalism, management is one section of the institution that hosts journalism. Thus, where editors arbitrate ethics, the potential for marginalisation of journalistic goods is great. Based on my theory of practice, ethical advisers should be drawn from the ranks of practicing journalists, not management. In addition to internal journalistic advisers, independent mediators should be appointed to deal with ethical complaints and problems. Given the application of the theory of practice to self-regulation, these mediators should not belong to the self-regulatory institutions.

I have argued that when market matters dominate the industry’s view of journalism, the contamination of journalism ethics is inevitable unless the values that determine ethical media business are completely aligned with the internal goods of journalistic practice. Even then, these practices are still vulnerable if they are evaluated from the external goods such as profit, power and audiences. Where the external goods of the media corporation are used to evaluate the quality of journalism and media business, the audience becomes the most important variable in determining what should be reported.

The professionally-responsible and market conceptions of journalism narrow the public sphere, both in terms of process and the non-localised or virtual space it represents. When the professional views of responsible journalism dominate, the public sphere is narrowed to what the journalists see as being important to the public, which potentially skews the information flow and potentially alienates sections of society. Diversity and participation decreases, particularly where media ownership and resources are concentrated into a few corporate owners. When the market determines what should be reported, the public sphere becomes the audience sphere, where people are given what they are thought to want in
order to get them to remain loyal customers or consumers. Instead of being exposed to a diverse range of opinions, views and information – where reflective opinions can be formed after debate and exposure to a diversity of views – the public sphere becomes a virtual space where like-minded people reinforce their own views. As Maitland (1997, 17) notes, “economic arrangements not only produce goods and services; they also produce certain types of people”. The transformation from a dialogical public sphere to a mediated publicness (Thompson 1995, 244-245) means the media (including journalism) play an integral role in modern identity and social participation. The media provide the information and mediated debate, paving the way for the formation of a common opinion. But where the voice of journalism is dominated by a particular conception of journalism that uses the market to determine value, economic factors become the dominant dialogue. If this language continues to dominate, economic values are seen as socially valuable. In a journalistic sense, this is not a problem where the market reinforces qualities that are seen as hallmarks of journalistic excellence. But where this does not occur (and there is evidence of this in every day practice), there are serious implications because communication via the mass media (including journalism) can affect identity at a social and individual level.

I have argued that individual identity is shaped through a process of discord and unity, as individual values are reassessed in light of the social contexts (Sayers 2002). Given the reliance people place on the mass media for information, particularly about issues outside their usual sphere of knowledge, journalism plays an integral role in this process of discord and unity. It shapes the social context by which people re-evaluate individual identity. Therefore the dominant voice within journalism does not just affect social values – if strong enough, it may affect individual values through this process of unity and discord described by Sayers (2002). In this sense, individuals rely on the mass media to construct individual and social identities. This is why a system of journalistic self-regulation needs to encourage ethical journalism.

McKnight (2003) makes this point in his analysis of how the neo-liberal views of News Limited have gained social acceptance in the late 90s. The argument I offer here suggests the neo-liberal attitudes of journalism and media business can
influence people at a social and individual level, thereby effecting social change within the public and private spheres. This occurs when the dominant voice of the journalism profession becomes a social norm at a private and public level, making the profession’s perception a social reality: albeit a distorted reality that does not represent a ‘reflective’ common opinion. Here a form of moral elitism emerges, where the views of the profession take priority, resulting in what some academics describe as the alienation of journalism (Meadows 2001). This is the situation now facing the practice of journalism: a practice alienated by a society where corporate values of profit, power and audiences dominate the intrinsic values of journalism – independence, truthfulness, fairness and respect for the rights of others. These values are also vulnerable to being assessed from the perspective of other practices hosted by corporate media institutions, such as the practices of self-regulation and the business of journalism, whose aim is to integrate competing goods. This is also occurring in the current system of self-regulation where ethical journalism is evaluated from the minimum standards prescribed by the self-regulatory codes. At this point it may be helpful to diagrammatically depict the process by which journalism’s conception of itself may change social values, by offering a dominant voice.
Figure 19: Journalism and identity

Because of the role played by journalism and the mass media in terms of modern identity, the potential effect of a neo-liberal view of journalism is that market values become the socially accepted value by which good and bad, right and wrong are evaluated. This enables the industry to say with some legitimacy that they are giving the public what they want. However, the reality is they are giving the audience, media corporations and the journalists they employ what they want. The problems with market values being used as the determinant of what is ethical are well chronicled. Maitland (1997, 18), for example, identifies the key problems with market values dominating ethical decision-making. He charges that the market releases self-interest from moral restraints and erodes all social ties other than purely economic ones. It also converts all relationships into commodities. He argues the market focus of business ethics means a “preoccupation with narrow individual advantage at the expense of responsibility to the community or social
obligations”. And he notes that it substitutes competition for voluntary cooperation, favoring materialistic values (Maitland 1997, 18). Many of these criticisms can be applied to the ethical decision-making in Australian journalism, since the acceptance of journalism as a commodity or business. However, Maitland concludes (1997, 28) that the market can inculcate ethical values and dispositions (such as the virtues of journalism), thereby strengthening its own foundations and reproducing a moral culture that is functional to its own needs. But to do this, performance indicators other than just profit must be used.

The arguments I have proffered rely heavily on the acceptance of a view of journalism as practice whose common goal is the production of a public sphere. This view of journalism is one explanation. When testing this theory against how the industry describes itself in self-regulatory codes, charters, reviews of the self-regulatory processes and inquiries into complaints about ethical conduct, it becomes evident that it does offer a description of journalism that describes what it is, how it is done and what it should be. It provides a theoretical framework to evaluate whether the system of journalistic self-regulation can give effect to ethical journalism. Application of the theory to the system of self-regulation in previous chapters reveals three fundamental flaws in the current system. The first relates to the ideological foci of the bodies overseeing journalism ethics. The second relates to the industry’s conception of ethics, which is affected by how journalism is conceptualised. The third concerns the operationalising of journalistic values (which may be distorted by the ideological focus of the organisation or institution overseeing journalism ethics or responsibility). At this point, it may be helpful to revisit the diagram depicting the relationship between practices, the corporate institutions and the public sphere. I have argued that two levels of self-regulation (institutional and organisational) are the practice of media business and the practice of self-regulation. In the journalistic context, these practices are hosted by two institutions: the media corporations and the self-regulatory bodies. The internal goods of these practices are vulnerable to the external goods of these two institutions. In previous chapters, I have attempted to map these conflicts, which can be represented diagrammatically in this way:
The above diagram builds on Figure 8 in Chapter 5. Practice is more than a set of technical skills. In addition to a co-operative human activity, it must have a set of intrinsic goods related to the performance of that activity which go beyond profit; there must be a striving for excellence both in product and performance; and there must be a sense of ongoing transformation (Arjoon 2000, 4). As the diagram above suggests, journalism, advertising and media business are practices hosted by the media corporation. The integration of the internal goods of practices and the external goods in this entity is both a part of the practice of media business (specific to journalism and other media practices) and a practice in its own right (generic self-regulation). Therefore media business and the practice of journalism
are partially hosted by the self-regulatory institutions. The practice of self-regulation intersects with the practice of journalism and the practice of media business. These are partially hosted by the media corporation and the self-regulatory institution. Therefore, they are vulnerable to the external goods of two institutions – the media corporation and the self-regulatory institution. When looking to reform journalism ethics, reviews that simply build onto the existing structures do not appear to be addressing the prior question as to whether the codes and the operationalisation of those codes can give effect to ethical journalism. In this sense, the Senate Select Committee MCC model does not engage with the social policy issues that relate exclusively to journalism.

In the above diagram, I have positioned the practice of media business, which is responsible for the integration of media practices, and the practice of journalism within the media corporations and the self-regulatory institutions. But these organisations also sit partially within the public sphere which they help to create and maintain, thus acknowledging the integral role of the public in the communication process that gives rise to the public sphere. In Chapter 5, I positioned the practices of journalism and media business wholly within the institutions of the media corporations and the self-regulatory bodies. I saw the public as being internal to the practice of journalism. However, when testing this theory against the codes, it was apparent that I needed to revisit that conceptualisation because the internalising of the public within journalism does not completely reflect the relationships between practices, institutions and the public sphere. To finalise my analysis of the self-regulatory system, I need to explain the relationship between media institutions and the public sphere.

### 8.5 Media institutions and the public sphere

The public sphere is not a social institution whose goods can potentially corrupt practices – it is the process of mediated dialogues and the product of that communication process. Therefore, it is a measure of excellence and the end result of excellence. Understood in this way, it is a social ideal to which society (institutions and practices) should subscribe. This approach assists in evaluating whether the internal goods of a practice are intrinsically good because the public sphere is both a means to an end and end in itself. These characteristics of the
public sphere mean it also helps us understand whether the goods to which a practice aims are in fact a measure of excellence in that practice and whether the sense of ongoing transformation is contributing to excellence in practice. The creation and maintenance of the public sphere is integral to contemporary media practices.

In modern society, corporate institutions and economic factors have been moved from the private sphere to help construct the newly-formed publicness described by Thompson (1995) and others (Calhoun 1992; Habermas 1989). Thus, an ethical media corporation needs to balance its private obligations to shareholders with its public obligations to promoting a healthy public sphere, which includes promoting a diversity of dialogue and other forms of public participation. The tension between private and public plays a similar role to the virtues in determining excellence in practice. It is a mean between two vices, one of excess and one of deficit. This relationship can be depicted in this way:

*Figure 21: Goals of social institutions*

The public sphere offers a form of modern virtue theory for media corporations. Enhancement of the public sphere should be viewed as the common goal of all social institutions. Performance of media corporations and civic institutions should be assessed by their ability to maintain and enhance the public sphere. By
broadening the definition of a social institution to include media corporations and linking performance to the public sphere, I suggest that indicators other than profit should be addressed when evaluating corporate performance. This point is a difficult one to make and certainly requires more discussion, well beyond this investigation. But I will offer further explanation by considering the notion of the public sphere in more detail.

Thompson (1995, 44-75) traces the role of the media in the development of modern society and in so doing, describes how historically the term public was linked to state-related activity and private matters referred to areas of economic activity and personal relations. The emergence of the non-state social institutions, such as lobby groups and privatised state services, has altered this perception of publicness in modern society in a number of ways – one of these is that economic factors are brought into the public sphere. Thompson (1995, 122) depicts the distinctions between public and private spheres in this way:

**Figure 22: Private and public domains in contemporary Western societies**

<table>
<thead>
<tr>
<th>Private domain</th>
<th>Public domain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Privately owned economic organisations operating in market economy and oriented towards profit</td>
<td>State-owned economic organisations (e.g. nationalised industries and state-owned utilities)</td>
</tr>
<tr>
<td>Personal &amp; familial relations</td>
<td>State &amp; quasi-state organisations (including welfare organisations)</td>
</tr>
<tr>
<td>Intermediate organisations (charities, political parties and pressure groups, co-operatively owned enterprises)</td>
<td></td>
</tr>
</tbody>
</table>

I argue that the public’s reliance on information and the effect of information on individual and social identities means media corporations take a unique position in contemporary society. The lines between public and private are almost completely blurred. In fact, I argue the profitability and social performance of transnational media companies is not a private matter between the corporation and shareholders, because of the *power* these corporations can exert on the public’s ability to participate in political and civil life. These corporations have been observed to be more powerful than some sovereign states (McChesney 1998; Chadwick 1996). Therefore, the nature of the corporation’s accountability needs
to be rethought. Like individuals, corporations have both public and private aspects to their identity. I argue the emergence of transnational media corporations has further altered the public sphere, requiring us to reconceptualise it in terms of the space it occupies. However, I do not accept Thompson’s depiction of the relationships between the public and private domains. I see the relationship between the spheres as being completely blurred. One reason for this is the importance of information to individual and social identities and the effect it can have on the ways in which public opinion is formed. Media corporations, industry self-regulatory bodies and the practice of journalism also influence public policy. In light of these characteristics media corporations (and the practices they support) can no longer sit wholly within the private sphere because they are “privately owned economic organisations operating in market economy and oriented towards profits” (Thompson 1995, 122). Aspects of the industry’s self-regulatory bodies also fall sit within the public domain. The relationship between public and private sphere can be depicted in this way:

*Figure 23: Public and private spheres*

I agree with Thompson, that it is no longer correct to describe the public sphere as a localised concept united by conversational dialogue. It is a mediated publicness, which is not localised in terms of space and time and for the most part is not
dialogical (Thompson 1995, 244-246). But as Thompson acknowledges, some forms of public communication in contemporary society are conversational. However, this does not make the public sphere a dialogical community because most of the public (which includes audiences) are “not participants in a dialogue but rather recipients of messages which are produced and transmitted independently of their actual or potential response” (Thompson 1995, 245). The uni-dimensional view of participation that has dominated media analysis and its inherent structures, means that the ability of the public to alter the media/journalistic messages is limited.

Thompson’s description of the modern media is a unidimensional view of participation, because it tends to divide the communication process into producers and consumers. Hamilton (2003, 296) argues this view shapes the types of questions posed in relation to participation, reinforcing the view that ideology plays a part in conceptualising the social problems confronting journalism. He notes (Hamilton 2003, 297) a multi-dimensional view of participation expands the types of questions posed in relation to participation. The Australian self-regulatory environment has tended to treat the public as passive recipients of information, rather than integral parties to the process. Therefore, the system has relied heavily on complaint-driven processes rather than considering the ethical obligations of audiences and the public in terms of consuming and interpreting information provided by journalists.

The public sphere is the product of mediated communication processes, which are partially dialogical. That means the Australian public can be active participants in the journalistic process. In reality however, their ability to participate is limited by the industry’s modern liberal and neo-liberal perspectives on journalism and the current approaches to self-regulation.

The changing nature of contemporary society and increasing importance of the mass media in mediating and facilitating public connectedness means media corporations can no longer be viewed as private economic organisations. Because these corporations control much of the information flow that can influence individual and social identities, they have public responsibilities in terms of promoting a diversity of views and encouraging multi-dimensional participation.
This point is well made by Gordon and Merrill (1988, 42) who depict the US Media Power-Freedom Model with greatest power vesting in the media elites and journalists. Journalists are depicted as having slightly less power-freedom than the media elites both groups are seen to have greater power than the state and the public. In the Australian context, I would argue individual journalists would have much less power than their US counterparts, simply because of the concentration of resources into a small number of media corporations (see Chapter 1).

In this way, media corporations are social institutions. Like the state, they help to create the publicness of modern society. Over-concentration of power in the hands of media corporations can intrude on an individual’s ability to participate in society, both at a public and private level. I have already noted that domination of the mediated dialogue within the media can affect individual identity, which in turn affects liberty, particularly in terms of the fundamental freedoms of speech, dignity, self-realisation and autonomy. Because media corporations traverse both public and private spheres their responsibilities and notions of accountability are now more in line with those expected of the state. Therefore, participation in the media process and representation of public views become important aspects of media performance. So, when assessing the ability of a self-regulatory to address the specific problems of the “journalism/media industry”, reviews must look beyond the conduct of individuals involved in the practices of journalism and media business. Account must be taken of the public roles of the media corporations. When justifying freedom of speech and the need for media freedom, distinctions must be drawn between corporate speech and public speech. In light of this distinction, account must also be taken of the potentially chilling effect of powerful media organisations on public speech. From a theoretical perspective, there is an argument to support market regulation and or incentives to encourage diversity and public participation in the media.

Thompson (1995, 240-243) sees the solution to this problem in terms of regulated pluralism, where an institutional framework is established that accommodates and secures the existence of a plurality of independent media organisations. This involves the “deconcentration of resources in the media industry” (Thompson 1995, 241). He calls for legislative intervention not just to curtail excessive power of media conglomerates but to promote “new centres of symbolic power” outside
the traditional media. Therefore, part of the state and media corporations’ responsibility to the public sphere is the maintenance of the independent media such as the ABC, SBS and community-based media in Australia. It also means funding them at a level that they can resist having to commercialise. Based on the practice/institution distinction there are moral arguments to justify a media tax on commercial corporations depending on the concentration of media resources to encourage and fund this diversity. However, this is another project in its own right. It also justifies corporations bearing much of the cost of public accountability and self-regulation.

Returning to the practice/institution distinction and the relationship with the public sphere, it becomes apparent that when looking at the area of journalistic ethics the process of self-regulation needs to be broadened to take account of corporate and business actions, not just the conduct of journalists and publishers. It also needs to take account of the consumption and interpretive functions of the public. The practice/institution distinction explains why public corporations should commit to policies that go beyond profit. This is because the public sphere is not only an ethical end in terms of a mediated process of communication; it is the mediated and dialogical process itself. One way in which media business can help reconcile the tension between the internal goods of journalism and the external goods of institutions is to introduce a system of corporate governance that commits the institution to promoting what I describe as a healthy public sphere. In the media context, this means a commitment to diversity of views, multi-dimensional approaches to participation and upholding the values seen as hallmarks of journalistic excellence.

By refining the theory of practice to incorporate the relationship between social institutions and the public sphere, I have offered an explanation of the confusion arising between the social obligations of the practice and the social obligations of the institution. Earlier in this dissertation, I discussed the Australian Press

\[26\] The ACCC does regulate the conduct of media corporations but its actions are not linked to the ethical quality of their journalism.
Council’s Charter. This noted the rights to freedom of speech of publishers. The reciprocity of rights and responsibilities was described in terms of publishers committing themselves to responsible journalism. The publishers and journalists themselves derived rights as the facilitators of the public right to know. In previous chapters, I have criticised this approach, arguing it fails to completely describe the relationships between publisher, media corporations and journalists. I believe the practice/institution distinction describes this relationship more completely in terms of what it is, what it should be and how it is done. It highlights that an organisation’s commitment to freedom of speech is not enough to give effect to a healthy public sphere. The concentration of power into media corporations has transformed society and requires a rethink of the values seen as hallmarks of journalistic excellence. In addition to the traditional values of independence, fairness, honesty and respect for the rights of other, journalists, media business and media corporations need to commit to the values of diversity and multi-dimensional participation: values that are not well represented in the Australian media industry codes of practice, at least.

Based on this analysis, reform of journalistic ethics starts with the corporate governance programs of all media corporations. This may help correct some of the ideological conflicts I have identified. However, the state also has responsibilities. I agree with Thompson (1995, 245) that legislative reform is required to ensure media resources are not concentrated too heavily within one corporate structure and there is a state responsibility to support alternative media that ensures a diversity of views and a range participatory options. But the media should remain independent of the state in terms of adjudications on what is ethical. I agree with Chadwick (1996) that the state should not regulate journalistic content. Therefore the three government representatives (and statutorily appointed chair) of the MCC is an unacceptable model for journalistic and media self-regulation. A lack of independent journalistic representation is also a major flaw in this revised model of journalistic self-regulation. It is conceded that the MCC model aims to address more than journalism. But the way to accommodate this is to offer each practice within the media industry representation independently of the media corporations and media business. Practice representatives would be called upon only when issues arise relating to that practice. This level of flexibility in the structure of the
review committee would accommodate the specific issues relating to the industry i.e. the vulnerability of practices being evaluated from external goods.

At an ideological level, the imbalance between the goals of corporations and journalism also may be redressed to some extent by reconceptualising the measures of corporate success to include performance indicators that go beyond profit. In journalistic terms, this means including performance measures that look at the contribution to social participation not only audience needs and demands. When evaluating the quality of journalism, it is not enough to ask whether it complies with the code of ethics. The bodies overseeing journalistic ethics must ask the harder questions of whether the mediation processes (journalism and mass media) are fostering debate rather than controlling public opinion.

The practice/institution distinction helps to illustrate that ethical reform of journalism in Australia will not be possible unless journalists, the organisations that employ them, the organisations appointed to oversee industry ethics and accountability as well as the public understand the potential weakening of practices when evaluated from the perspective of external goods of the institutions that host them i.e. the media organisations and the self-regulatory bodies. If journalism and media corporations continue to reinforce values like money, profit, audience and power as measures of the quality of journalism, journalism is devaluing itself. Potentially the market can become more important than humanity itself. In this sense, the academic world cannot allow the views of journalism as a commodity to go unchallenged. By offering my alternative view of journalism, I seek to explain what it is (a practice alienated by modernity); how it is done (through the pursuit of journalistic virtues); and what it should be (a practice distinct from the practice of business and the corporate institution that hosts it). The aim of journalism should be to maintain the virtues seen as distinguishing it from other forms of professional communication and competing practices. But it also must aim to quarantine itself from being evaluated from the external goods of the corporation that hosts it. In this sense the aim of self-regulation should be to:

- enhance the public sphere (civic transformation)
- preserve the virtues of journalism: both internally and externally;
• ensure these ideals are embraced by the competing practices and the institutions that host them; and

• provide a framework that facilitates ethical decision-making at all levels, including promoting a market that encourages the character traits seen as the hallmarks of journalistic excellence.

So how does the current system of journalistic self-regulation measure up to these aims?

8.6 Virtues of self-regulation (the practice)

I have already argued that the theory of practice I have articulated here sees self-regulation operating at two levels. Media business deals with the specific problems of integrating internal goods of media practices and external goods of media corporations. Their functions are part of the practice of business. The practice of self-regulation is the co-operative human activity whose set of intrinsic goods define self-regulation: a generic practice. It should be pointed out at this point, that my focus is not on the virtues of self-regulation. However, before offering an alternative model for journalism self-regulation, I need to explain why change is needed. To do this I will revisit the criteria identified by the Taskforce into Self-Regulation (Commonwealth of Australia 2000) as being the principles for industry based self-regulation.

In setting out the crucial elements of a self-regulatory scheme, the taskforce noted that “good practice in self-regulation can be understood as significantly improving market outcomes for consumers at the lowest cost to business” (Commonwealth of Australia 2000f, 1). The taskforce’s report reveals that in Australia, the quality of self-regulation (as a practice) is being evaluated from its ability to protect the profitability of industry and business. Market values therefore figure highly in terms of the quality of performance of a self-regulatory scheme. The alienation of practice in modern society is again highlighted in the context of self-regulation as external goods are used to evaluate performance. Market values (external goods of institutions such as power) are being reinforced on a number of levels: the evaluation of the quality of journalism, the evaluation of the quality of business, the evaluation of the quality of corporate performance and the evaluation on the
quality of self-regulation. In light of the theory of practice and the vulnerability of the internal goods of practices being evaluated from the external goods of the institutions that host them, I would suggest the system of journalism self-regulation needs to be built from the workplace level. This ensures it can address the specific market issues facing journalistic practice and the social policy issues of ensuring a diversity of views to enhance the public sphere. It can specifically address any ideological conflict between journalists and the media corporation, which has been noted as the place of greatest potential for conflict. The aim of self-regulation is a compromise between the values that underpin journalistic excellence and the values of the media corporations, expressed in terms of market satisfaction. In this sense, the aim of self-regulation is not to encourage ethical practice – it aspires to developing an efficient system of accountability to consumers.

I have argued that accountability is not definitive of what is ethical. Conflating accountability and ethics focuses the ethical framework on rules and principles rather than the broader issues of reflective practice, which equips individuals with the intellectual skills to evaluate right action. Another by-product of market language is to view ethics as a measurable and quantifiable concept that can be universally defined. The dynamic nature of the virtues reveals that what is ethical is not necessarily universally definable or measurable. The consumer-oriented focus of journalistic self-regulation and accountability means ethics is viewed as rules to provide professional certainty and guarantee consumer satisfaction.

The shortfalls of this approach to ethics are apparent when I refer back to the characteristics of practice. Practice is seen as a set of intrinsic goods related to performance of that activity which go beyond profit, striving for excellence both in product and performance and there must be a sense of ongoing transformation. The market-orientation of the industry’s conception of self-regulation appears to have distracted reformers from these essential characteristics. I have stated frequently throughout this study that rules are only one aspect of the review of self-regulation. The operationalising of these rules is equally important. In the most recent inquiries into reforming journalism ethics, little attention has been paid to dispute resolution. Sourdin identifies (2002, 39) the foundation skills essential to people involved in effective dispute resolution. These include
advanced listening skills and neutrality and impartiality (Sourdin 2002, 39, 44). She identifies broader dilemmas in relation to neutrality and impartiality which go to the integrity of the process, stating mediators must maintain the integrity of the process without violating the interests of the community and unrepresented parties. The legalistic and secretive processes and procedures adopted by the MEAA (AJA) Judiciary Committee do not engage with these issues. Despite recommendations by the Brennan Committee, the MEAA has opted to protect its own interests (legal safety) rather than reform its processes and procedures to reflect greater public transparency. The second issue, identified by Sourdin (2002, 44), relates to maintaining equal bargaining power without compromising neutrality. When reforming journalism self-regulation, recent reviews have discussed the power imbalance between journalists, proprietors and the public. But much of this discussion has focussed on the relationship between journalists and the state. When developing a system of journalism ethics, it is important to identify how the power imbalances can be redressed to ensure the virtues of journalism are not weakened by competing values of other practices and the institutions that support those practices. But the power imbalance between the industry and individual members of the community must also be factored into a revised structure.

Journalism has tended to accept that accountability is tantamount to encouraging ethical practice and I argue that this conception of ethics has contributed to the industry developing a framework that relies very heavily on an institutionally-based self-regulatory system. However, reviews of self-regulation such as the Taskforce into Industry Self-Regulation (2002) have linked the notion of accountability to business viability and it is here that the institutional aims of self-regulation offer the greatest potential for undermining journalistic virtues. This is particularly true in relation to the ABA and the codes it oversees, as the discussion in Chapter 5 reveals. Institutional self-regulation accepts that market considerations take a high priority when developing an accountability framework. In this way, market values are embedded in the language of self-regulation. This casts a further shadow on the values that underpin journalistic excellence, particularly where the industry views itself as a commodity. Where this occurs, market values dominate not only the media’s conception of journalism, but also
what is seen as best practice in self-regulation. The ability of journalism to resist the erosion of journalistic values becomes less likely as market considerations are given further institutional recognition through the system of self-regulation. If the market fails to reward the character traits seen as hallmarks of journalistic excellence, then the practice of journalism is likely to be weakened. A number of key virtues and duties are not represented in these codes and this, combined with the cynical view towards aspirational values, means the language of ethics within the current self-regulatory paradigm is not complete.

One aim of self-regulation should be to look at ways of using the market to inculcate the values seen as hallmarks of journalistic excellence. A bar to the current system of self-regulation giving effect to this relates to the way in which the industry has opted to operationalise its system of self-regulation. The determinative focus of the processes and procedures put in place to oversee journalistic conduct and the formal nature of the review processes suggests the existing ethical framework is flawed because it effectively limits public participation in ethical discussion-making by restricting information.

8.7 Operational obstructions to promoting ethical journalism

In Chapter 1, I outlined the system of journalistic self-regulation, setting out the processes and procedures utilised by the various bodies that make up the industry scheme. I observed that the majority of organisations overseeing journalism standards have adopted determinative rather than facilitative approaches to complaints. The approaches to handling complaints were described and critiqued extensively in Chapter 1. However, they can be summarised in this way:
Table 8 (repeated from Chapter 1): ADR characteristics of journalism self-regulation

<table>
<thead>
<tr>
<th>Code</th>
<th>Process Stage one</th>
<th>Stage two</th>
<th>Stage three</th>
<th>ADR classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEAA</td>
<td>Mini trial</td>
<td></td>
<td></td>
<td>Determinative</td>
</tr>
<tr>
<td>APC</td>
<td>Mediation with APC appointed mediator</td>
<td>Adjudication, with some flexibility of process</td>
<td>Facilitative &amp; Determinative</td>
<td></td>
</tr>
<tr>
<td>The Age</td>
<td>No procedure set out. No third party nominated to deal with complaints</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABA</td>
<td>Negotiation with broadcaster. Broadcaster decides outcome (not third party) Expert determination</td>
<td>Arbitration by ABA, with some flexibility in procedures (determinative)</td>
<td>Facilitative and determinative (more determinative)</td>
<td></td>
</tr>
<tr>
<td>ABC</td>
<td>Negotiation ABC executive (not 3rd party) Expert determination</td>
<td>Independent Complaints panel Expert determination</td>
<td>ABA hearing Arbitration with some flexibility of procedures</td>
<td>Determinative</td>
</tr>
</tbody>
</table>

This suggests that the approaches to dispute resolution are essentially facilitative or determinative. There is little attention to advisory means of dealing with disputes or ethical problems. To encourage ethical conduct, this shortfall needs to be addressed. Some may argue that the advisory roles are performed informally within the newsroom environment and through media critique of performance. I argue, however, that the advisory functions need to be formalised to ensure that one aspect of ethical self-regulation sits outside the institutional frameworks of the media corporations and the self-regulatory bodies alike. To preserve the values seen as hallmarks of excellence and to protect the continuing tradition of ethical journalism, part of the ethical framework must be positioned outside the media corporations and the self-regulatory institutions: this includes the journalist’s union. So where do we go from here?

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27 Alternative Dispute Resolution
8.8 Alternative model for self-regulation

My aim in this study has been to offer a theoretical framework to assess the suitability of the current system of journalistic self-regulation to give effect to ethical journalism and to offer a pathway to improvement. By describing journalism in terms of the relationship between practice, institutions and the public sphere – and incorporating virtue theories of ethics into the analysis of journalism ethics – I have offered an approach to accomplishing this task. In this sense, I have gone some way towards developing what Chadwick (1998, 7) calls a shared language of ethics that covers corporate and journalism speak. By using my theory of journalism as practice to evaluate the gap between the aims of journalistic self-regulation and the aims of ethical journalism, I have identified the specific social policy and market issues that should be addressed by a system of journalistic self-regulation. I will now summarise the key problems and outline some recommendations for addressing them.

The first issue identified in relation to the current system of journalistic self-regulation relates to the ideological conflicts emerging from an institutionally-based system. The greatest challenge facing self-regulation is the ideological conflict between corporate goods, journalistic goods and the aims of industry self-regulation. The integration of the goods is a role of journalism business, therefore the first phase of any system of self-regulation should be workplace-based. Currently, there are a number of self-regulatory bodies, each with their own aims and objectives, ranging from protecting the profession of journalism to promoting freedom of speech and promoting broadcasting industries. Given these organisations have institutional aims beyond promoting ethical journalism these bodies should not be overseeing journalistic self-regulation. Instead, they should offer advisory and lobbying functions for their interest group. This would go some way to correcting the power imbalances between corporations and the journalism practitioners and could help foster a diversity of voices to promote debate publicly and within the profession. It is quite disconcerting having a complaints handling body, like the APC, lobbying on behalf of publishers’ freedoms. The relationship between media corporations and the public sphere helps to explain why the performance of media corporations should be assessed from perspectives other
than profit. It also highlights that a corporate governance program should not only deal with the relationship between corporations and their shareholders. The public responsibilities of the modern media corporations mean corporate governance programs should commit them to journalistic excellence and enhancing the public sphere. Therefore the business of journalism should implement a corporate governance program that reflects the values of journalistic excellence. Workplace agreements and freelance contracts can be used to commit journalists and other media employees to a workplace-based self-regulatory scheme. The state and media corporations must also commit to promoting diversity within the media to ensure the public can form a reflective opinion. This means helping to fund independent media such as the Australian Broadcasting Corporation, SBS and community-based media.

This discussion also has implications for education in ethics. Virtue theory focuses attention on the virtues of character and intellect. Prudence, or practical wisdom, is the most important of the cardinal virtues. In order for journalists to make ethical decisions, they need to develop the intellectual skills by which to engage in reflective decision making. This has implications for how journalism is taught in universities and how continuing education in journalism is delivered. Practical wisdom includes theoretical and craft skills. This highlights the importance of incorporating theoretical and practical skills within the journalism curriculum. But, more importantly, the collocation of practices within the corporate institutions suggests that ethics educators need to look more broadly than journalism. Aspects of business and corporate ethics should be incorporated into university curricula and practical ethics training. The public and consumers of journalism also need to be educated in ethics. This means involving the general public more in the self-regulatory and journalistic process. Discussions need to be held on what constitutes an ethical consumer of news.

However, much of the self-regulatory process is complaint driven. In this sense it is a form of alternative dispute resolution. As Sourdin (2002) concludes, there are specific skills needed by mediators and facilitators for alternative dispute resolution processes. Given the specific problems facing journalism, it may be that dispute resolution needs to be incorporated into teaching of ethics or media
business management courses. It could be there is a need to develop postgraduate courses in media mediation and dispute resolution.

This analysis also reveals problems with the definitional aspects of the self-regulatory process. In particular, it reveals a need to expand our conception of journalism and distinguish between the practice of journalism, the practice of media business and the institution of the media corporation. By doing this, the system of self-regulation can identify the tensions between the institutional values and the values of journalistic practice. I have already noted this can be addressed – to some extent – through a system of corporate governance. But it is also important not to conflate the minimum standards of self-regulatory accountability – which aims to uphold minimum standards – with the language of ethics.

The practice/institution distinction also reveals that the transformation from a dialogical to a more mediated public sphere means that the values seen as hallmarks of journalistic excellence must be expanded to include promoting of diversity and a multi-dimensional approach to media participation. I have identified a number of operational constraints on the ability of the current system of self regulation to give effect to ethical journalism. In the diagram below, I have attempted to map a holistic framework, which offers advisory, facilitative and determinative processes.
The first point to make about this proposed alternative is that it is not complaint-driven. It offers two alternatives by which people can seek advice on problems with the media. These are through an ethics officer (which would be internal to the media corporation and selected from the ranks of practising journalists, someone who is not in a management position) and an independent ethics advisor (external to the practice and the institution). The ethics officer would offer advice and deal with problems and complaints internally. These problems could originate from within the organisation but he/she would also deal with complaints from members of the public. He/she would also be in charge of co-ordinating ethics education within the corporate environment. This offers a quick and simple method by which problems can be resolved without going into formal processes. Depending on the size of the organisation, it could be a workplace-based or corporation-based appointment. The ethics officer would compile data on complaints and ethical problems which should be reported to both the internal review panel and a Media Ethics Committee. The ethics officer should not be an editor.
The independent ethics advisor would be more of a policy advisor, who scrutinises the entire scheme and offers advice on difficult and complex issues, which may involve internal conflicts of interest, thus making the internal review process non-viable. This first-phase of the scheme is advisory.

The second phase of the scheme is a facilitative process which includes an internal review panel and independent mediators. The internal review team would comprise a flexible panel including representatives from journalism (an ethics officer or designate), management and the public. This panel would have limited powers such as printing corrections and requiring journalists and editorial decision-makers to attend ethics training. Complaints and problems also could be referred to independent mediators, who would be selected from a panel of expert media mediators.

The final phase of the review process sits with the Media Ethics Committee (MEC), which could adopt determinative processes where appropriate. The MEC would be a committee that reviews internal decisions. It could second representation from relevant workplaces, the public, practice experts and various industry bodies such as MEAA, APC, ABA and other media organisations. It would have the options of referring matters to the independent mediator and also to seek directions from the independent ethics advisor/s. This body would have a number of punitive sanctions available including fines, correction orders, publication of adjudications/findings and similar penalties. It would compile data on the media performance based on the reports received from media ethics officers and independent advisors.

This system has a number of advantages in that it addresses the ideological problems integral to the process of self-regulation at the point of greatest influence: the workplace. Therefore it is more likely to influence how people perform their roles. It is not dependent on a complaint being instituted and it offers a framework to formally deal with internal ethical problems. It incorporates a range of dispute resolution processes, from advisory to determinative, offering a level of flexibility to align the process of resolution with the nature of the complaint. For instance, in relation to privacy and confidentiality matters, it may
be better to deal with these issues confidentially through mediation than by determinative procedures that are open to public scrutiny.

The scheme also acknowledges the importance of education to maintaining ethical conduct. It acknowledges the need for comprehensive ethical training, which addresses the specific issues facing the practice of journalism. But such training needs to be holistic, engaging with ethical issues from the perspective of other practices and the institutions that host these practices as well as the general public. Any internal practice/institution-based education must be complemented by external education within universities and the general public. A multi-dimensional approach to media participation means educating members of the public about their responsibilities in an information society. The World Summit on the Information Society (2003, 1) has declared a commitment to building “a people-centred, inclusive and development-oriented Information Society, where everyone can create, access, utilise and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life”. To achieve this, members of the public must become more aware of the ethics of information consumption: not just in relation to accessing information via new technologies but accessing information generally. This does not mean a code of ethics for members of the public, where sanctions can be imposed on consumers. It means engaging in debate, offering advice and reinforcing the view that consumption of news is not a passive activity. It is a dynamic process of reflective engagement, where individuals must develop character and intellect traits in order to convert information to knowledge to aid formation of a reflective public opinion. Universities play a major role in this and journalism education needs to maintain the trend of embedding skills training into a reflective context because practical wisdom includes theoretical and craft expertise. Based on the arguments I have presented in this study, I believe craft expertise is dependent on theoretical wisdom because practitioners require this knowledge to develop the reflective skills needed to create a practice. Previously, I have stressed two characteristics that are essential to practice: they are reflective habits and the notion of evolving tradition. These characteristics are impossible to develop without theoretical wisdom. In this sense, theoretical wisdom is a cardinal virtue of journalism.
The scheme also ensures a level of transparency because data relating to the conduct of journalism is maintained and reported to the public. By requiring ethics officers to collect data about complaints and ethical problems within the workplace and investing the MEC with a data collation and reporting function, this scheme offers a level of transparency that has not been available across sections of the current self-regulatory scheme. It will offer people interested in journalism and business ethics rich sources of raw data that can be used to identify the specific ethical issues facing individual workplaces, media corporations as well as the industry. I see the introduction of a comprehensive reporting scheme, traversing all phases of the journalistic process, as the first step towards real ethical reform.

This is a reform model constructed on the specific problems facing Australian journalism. I do not presume to have solved the problems facing the journalism industry. I do, however, offer a model for reform based on a theoretical framework which I believe fully describes what journalism is. In this sense, I believe it may help the industry beyond Australian shores to construct a system of self-regulation that recognises the central role played by journalism in contemporary society and the importance of encouraging reflective practice to ensure a greater understanding of journalism ethics.
Chapter 9

Conclusions

The problem revisited

In this study I have attempted to highlight inherent flaws in the institutionalised system of journalistic self-regulation in Australia and its ability to encourage ethical journalism. The reasons for this are many, but I have focussed on the theoretical paradigms which have guided contemporary understandings of journalism and journalism ethics. In order to map these influences, I have developed a number of conceptual categories. In Chapter 1 I mapped the current system of journalistic self-regulation, focusing on a sample of journalism codes to help categorise key approaches to self-regulation. This study has not considered the regulatory structures that oversee the corporate and business functions of journalism such as the Australian Competition and Consumer Commission. In Chapter 3, I canvassed various philosophical writings in order to develop the theoretical framework for mapping the ideological foci of current conceptions of journalism and journalism ethics. By critically reviewing current theories of journalism, I then identified shortfalls in contemporary approaches to theorising journalism. In Chapter 4 I concluded that when evaluating the ability of a self-regulating process to encourage ethical journalism, a complete theory of journalism is required which describes what journalism is, what it should be and how it is done. I have argued that contemporary conceptions of journalism do not offer a complete description of journalism and in Chapter 5 I postulated my own theory of journalism as practice which builds on the work of Alasdair MacIntyre (1985) and contemporary interpretations of his work. I then used this theory to critique current approaches to journalism self-regulation, highlighting ideological conflicts within that system (Chapter 6). In Chapter 7, I examined the significance and role of virtue to in ethical journalism, concluding that current conceptions of journalism ethics have taken a bilateral view that is oriented to rules and consequences of action. I called for a holistic approach to journalism ethics, which takes account of the virtues of intellect and character to offer a supportive framework to encourage ethical journalism. In Chapter 8, I used the theory of
journalism as practice to offer an alternative approach to self-regulation that might redress some of the shortfalls of the current scheme. I concluded that self-regulation is one way in which conflicts between competing values can be reconciled. The first phase of self-regulation occurs at the business level, and this needs to be taken into account in reforming approaches to journalistic self-regulation to ensure the values seen as hallmarks of excellence in journalism are not marginalised by external goods such as profit, power and fame. In the alternative model presented in this study, I offer a pathway towards a more holistic approach to journalism self-regulation that seeks to encourage ethical practice by introducing a number of reforms.

The first point to make is that ethical journalism can only occur in the context of reflective practice. To be reflective, journalists need both craft expertise and theoretical wisdom. In order to achieve theoretical wisdom, I believe theories of journalism must be linked to the relationship between individuals and society in order to map the key intellectual paradigms that have influenced how it has been conceptualised. Further work needs to be done in developing praxis-oriented theories of journalism and journalism ethics to enable us to evaluate the intellectual paradigms that have shaped contemporary understandings of journalism and news production. In this way practical wisdom will be advanced and practitioners will be in a better position to decide what ethical journalism is. My work on the theory of journalism as practice contributes to this discussion and hopefully expands the intellectual paradigms that have shaped approaches to journalism ethics.

In this study I have highlighted the integral role of ethics in defining journalism, arguing that the values seen as hallmarks of journalistic excellence (ethical journalism) distinguish it from other communication processes. The relationship between conceptions of journalism and approaches to ethics needs to be monitored (beyond this study) to ensure the hallmarks of journalistic excellence are not subjugated by competing media practices and the external goods of media corporations. This means further exploring the role of virtue in ethical journalism in the workplace and mapping the ethical paradigms that influence journalists in evaluating what is news. Less reliance needs to be made on rules and principles.
Attention also needs to be given to the suitability of processes and procedures put in place to uphold journalistic values.

When reforming the system of self-regulation to ensure it encourages ethical journalism, the system must minimise the ideological conflict between competing goods of the various media-based practices and the institutions that host them. This can be achieved by offering a multi-dimensional process of self-regulation that originates where the potential for ideological conflict is greatest. The alternative model I have presented in this study attempts to achieve this by acknowledging that media business is the first phase of self-regulation. Thus aspects of best practice in self-regulation need to be taken into account at business levels. The alternative model offers facilitative, advisory and determinative dispute resolution processes, thereby aliening the processes and procedures with key journalistic values and minimising the risk of ideological conflict.

In this investigation, I have also maintained that a multi-dimensional approach to media participation must be taken. This means looking at participation from the perspective of the practices of journalism and self-regulation. By broadening the approach to participation, ethical journalism is more likely to be encouraged. In terms of self-regulation, this means acknowledging that members of the public also have ethical obligations in terms of consumption of information. Given the importance of practical wisdom to ethical journalism, education schemes are needed at all levels to encourage awareness of the various dimensions of the journalistic process and the active role the public needs to take in the consumption of news.

Throughout this study I have stressed the integral role journalism plays in disseminating information which is used by members of the public to make decisions at the level of both the public and private spheres. Because of this, it is imperative that the professional values upheld by industry self-regulation are scrutinised and challenged to ensure they encourage ethical journalism. I have argued the modern liberal paradigm has seen minimum solutions to specific industry problems conflated with notions of journalistic excellence. This should not occur. Nor should the aims of media corporations be used to define
journalism. It is much more than a product. It is a practice that people rely on every day to make decisions and judgements that determine the nature of society.

To ensure the practice of journalism is preserved, the paradigm currently used to evaluate ethical journalism must be expanded. This means reconceptualising journalism. If journalism is accepted as a practice, according to the approach taken in this study, then the debate about journalistic ethics moves beyond minimum solutions to specific problems. My approach fosters a holistic perspective on ethics, which I am hopeful will rejuvenate enthusiasm for key journalistic ideals of the virtuous journalist. In this study I have attempted to map the virtues of journalistic self-regulation and, in so doing, have identified real problems with the current approach. In fact, given the overall goals of the practice of self-regulation, the virtues of journalism will always be vulnerable. The common goal of self-regulation is to integrate the goods of the competing practices hosted by the media institutions. Therefore, it is imperative that the practice of journalism maintains key representation within the self-regulatory processes and journalistic managers are not invested with the sole responsibility for deciding what is ethical.

This study is ambitious and because of this, its findings are limited. Before the theory of journalism as practice can be accepted as a “grand theory” of journalism, further research must be undertaken. Ethnographic studies are needed to take account of personal ideologies and conceptions of journalism that influence the journalistic process. But I hope that this study can form the foundation for these further investigations by identifying the key conceptual categories by which to collect data. In this sense, I have offered a conceptual map by which to approach reform of journalistic self-regulation in order to promote ethical journalism. I have also offered an alternative model for journalistic self-regulation that attempts to follow those concepts. In this way, I have highlighted a lack of virtue in the current system of journalistic self-regulation.
NOTE

The Appendices to this thesis consist of the text of published codes of practice, codes of ethics, charters, etc. They have been removed from the electronic version of the thesis for copyright reasons.

The omitted Appendices are listed in the Table of Contents.
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