Enforcing Media Codes

By Clifford Christians
University of Illinois-Urbana

The longstanding debates over how to enforce codes of ethics reflect a serious flaw in understanding the nature of “accountability.” Fuzziness over that basic notion has allowed the quantity of codes to expand, without any improvement in their quality or in media behavior. The essay maintains that we repeat the same arguments today that moralistic journalists did in the 1920s, because we lack intellectual precision over such issues as internal vis-a-vis external controls, ethics vis a vis First Amendment freedoms, and different forms and degrees of accountability to government, to fellow professionals, and to the general public. Self-imposed media codes—with enforcement provisions—and through analysis of social ethics are recommended.

The star among early media codes was the “Canons of Journalism” inspired by Casper Yost of the St. Louis Globe Democrat and adopted by the American Society of Newspaper Editors already in 1923, the second year of ASNE’s existence. Several journalism associations—local, state, and national—copied or imitated its content during the 1920s. The famous SPJ/SDX code of ethics, for example, owes its origin in 1926 to the ASNE Canons.

One year after ASNE formed its code, the U.S. Senate began checking rumors that government oil reserves in the Teapot Dome were being sold to private oil companies. From that scandal emerged an important clarification regarding the role of codes among journalism practitioners. One member of the newly formed association—F.G. Bonfils, publisher of the Denver Post—was accused of accepting a million dollars in bribes for suppressing information from his reporters about wrongdoing in the Teapot Dome area. Bonfils became a bone in the Association’s throat. Just one year earlier the membership had passed a series of principles pledging decency, fair play, sincerity, truthfulness, accuracy, impartiality. Bonfils had failed on nearly every count and several of the 124 members demanded that he be punished for clearly violating the code of ethics. The arguments over code enforcement lasted for five years and every conceivable alternative surfaced.

Finally in 1929, under pressure from Bonfils’ threat to sue them into bankruptcy, the newspaper editors voted for voluntary obedience rather than disciplinary action. Some distinguished ASNE members maintained that adopting a code without provisions of en-
forcement was a mockery. Willis J. Abbott of the *Christian Science Monitor* contended, for instance:

> It is to my mind utterly indefensible that we should adopt a professional code and make no provision at all for the discipline of the people who refuse to accept the code as part of our fundamental law.1

However, the argument which prevailed came from Samuel Williams, editor-in-chief of the *St. Paul Dispatch Pioneer Press* (Block, 1986, p. 14), who claimed that censorship within the Association violated the free press doctrine. “There is in principle,” he argued, “little difference between . . . a judge . . . being given the power to suppress a newspaper . . . and the power that you (the editors) propose to confer upon a small body of you own choosing here.” Williams’ speech was roundly applauded and the ASNE resolved not to approve any provisions to expel.

ASNE debated a meaty issue and chose an alternative which has endured until now. The flagship of contemporary codes, for example, was approved unanimously by the 1973 SPJ, SDX convention in Buffalo, New York. This revised version of its 1926 model has been the chief trigger in a wave of code interest underway ever since. Within three years, in fact, SPJ, SDX’s Executive Secretary could justifiably report that the Code had been circulated widely throughout the country, adopted by many news organizations, reprinted in a number of textbooks . . . I would guess that our code has had the widest circulation . . . (and helped stimulate) other national journalistic organizations to revise their codes or adopt new ones in recent years.2

But no internal enforcement for another 10 years. Only now is the possibility on the agenda through the persistence of Casey Bukro’s task force charged with recommending enforcement procedures. SPJ, SDX’s efforts at implementation since 1973 have been almost exclusively educational. The Code itself exhorts chapters to “prevent violations” and “actively censure,” and some have attempted to follow that advice.3 But no punitive action has been possible locally or nationally. Disseminating the code is the rallying cry, that is, placing framed copies on every newsroom wall. One hears hortatory oratory at every convention—"we must prevent violations,” “journalists have a sacred trust,” “keep good faith with the public.” But there is no machinery for pushing aside the bandits. The idea of self-regulation, of voluntary compliance, continues to dominate. In fact, the mixed-to-negative reaction from SPJ,SDX chapters to developing an acceptable enforcement formula darkens the prospect of significant progress.

This social history of codism is obviously compressed. There are other important lines in addition to the path from ASNE in 1923 to SPJ, SDX in 1973. The first Radio Code formulated in 1928 by the National Association of Broadcasters initiated another stream. And a host of issues besides enforcement has shaped the debates. Undoubtedly much of the early impetus came from status-seeking journalists comparing themselves to law and medicine and wanting to
upgrade their profession’s honor.

However, to my mind, the enforcement question remains central. It has been the focal point of disagreement since the beginning. As the issue finally emerges for formal action, “strong sentiments are growing on both sides,” according to SPJ,SDX President Frank Sutherland (1985). But I want to make a stronger claim. I detect in all our discourse over codes a serious flaw in understanding. The documents reveal an unsettling intellectual weakness—at least for those of us with a scholarly interest in codes as one aspect of professional ethics. Why is there endless repetition, the proverbial chasing of tails, reinventing of tiny wheels, argumentum ad hominem—and in abundance, but little appreciable advance? The reason, I believe, for our failure to move forward substantially regarding codes is a deficiency in understanding accountability. Fuzziness over that basic notion has allowed the quantity of codes to expand, without any improvement in their quality or in press behavior. We repeat the same arguments at present as they did in the 1920’s, for lack of intellectual precision over accountability.

Therefore, regarding journalism codes a priority item on our agenda today is an intellectual one. We still must get straight on the basic matter of accountability. This term needs more subtleties and less confusion. A proper range and place for that concept is the nerve of this essay. This appears innocuous enough, but I believe strongly that no worthwhile progress can occur unless the parameters of the discussion are defined more sharply. Otherwise we will continue to conflate necessarily distinct issues, misplace our constraints, and mix categories. I aim, therefore, to strengthen the hands of those who desire meaningful code enforcement by helping to secure the very foundation of codism itself.

Accountability Defined

In what follows, it will become obvious that I am not evangelizing the irresponsible. In staking out a position on code enforcement by making the concept of accountability intelligible, I do not address the incorrigibles. Those few who abuse their freedom and sully their profession will be unimpressed. My argument is designed for the overwhelming majority of media practitioners and educators who realize that freedom entails accountability and who wish to exercise their responsibility more effectively.

To say that agents are accountable for their behavior means that they can be called to judgment in respect of their obligations. That is, one can legitimately raise questions or even lay charges if necessary, and expect reasonable answers. An account is a reckoning properly requested and given, a statement explaining conduct to legitimately designated parties. And if one attempts to place accountability within the sociopolitical frameworks in which this notion operates vis-a-vis the media, we must consider it in three different senses: the media are accountable to the government, to themselves as professionals, and to the public.
In its strongest and most explicit form, accountability is to be understood in terms of liability to punishment. In this sense the courts judge persons liable and the state imposes criminal penalties. Those who make such judgments are considered by reasonable persons to administer the punishment legitimately. The person may be legally and properly blameworthy of civil or criminal offense.

On another plane—in terms of fairly unambiguous communities such as the business, journalism, or legal professions, accountability means disapproval for morally questionable activities. Persons are blameworthy when their offense is considered morally reprehensible by those who share a recognizable community with them. Those who can legitimately pass judgment in this case are peers who punish the offender by public or private censure, by criticism or outrage. We intuitively recognize this form of accountability when distinguishing the moral from the legal, when realizing that though we are not breaking any laws, we have a moral obligation not to violate a commitment or dishonor a relationship.

However, neither meaning of accountability covers a third, more general notion of answerability in that huge social arena constructed largely of custom and convention. Those with power can be legitimately held accountable by the public they serve in the sense that they can be challenged to answer and explain when their behavior appears unacceptable. On this level, the press may be accused of neglect or irresponsibility and punished by scorn or indignation. Answering occurs primarily in the interactionist mode; in this area, claim and counterclaim, clarification and expansion are essential.

On the basis of this discrimination of usage, some implications for media codes of ethics become apparent. Before disentangling the details, let me state the conclusion in general terms.

Codes of ethics, in the reconstruction of accountability above, reasonably fit into the second category only—that of moral sanction among peers. The National Association of Broadcasters has based its rationale for codes almost exclusively on control of broadcasting by broadcasters, believing that if the industry monitors itself, the government will be less likely interfere. However, to assume that codes will help forestall coercive intervention by governments is to commit what philosophers call a category-mistake. It is faulty reasoning to take the kind of accountability in domain number two and conclude with the legal sanction of domain number one. Likewise SPJ, SDX’s persistent argument for self-regulation—that First Amendment freedom preclude enforcement codes—is a category-mistake. It also mixes the first area with the second. My reconstruction further precludes the use of codes for answerability, that is, as a responsible explanation for the public’s legitimate questions about press behavior. In fact, often codes are promoted currently as a signal to a disgruntled public that the press has its house in order. However, to presume that codes improve the media’s credibility with society is to conflate two social groupings (professional colleagues and the citizenry).
Certainly this third domain is crucial today. In this age of escalated consumerism, publishers and broadcasters realize instinctively the threat of audience dissatisfaction. And even beyond the economic motivation, the epilogue of the SPJ, SDX code is undoubtedly well-meaning: “adherence to this Code of Ethics is intended to preserve the bond of mutual trust and respect between American journalists and the American people.” However, given the frame of reference developed earlier, media practitioners should not be surprised that media codes are seen by the general public as a mantle of self-protection and status quoism. Newspersons point to such words as truth and fairness written all through the codes, and their accusers hear arrogance instead. Ethical codes are structurally flawed as a device for producing that type of accounting I have termed “answerability.” In reaching this conclusion, I do not dispute that accountability to the public is necessary, only that codes cannot produce it. Letters to the editor, explicit rules for news councils, and other devices are better ways of interacting with the public and taking them seriously.

But our primary stumbling block is the first definition of accountability, legal liability. The press does have an explicit constitutional prerogative and is entitled to the protection that such legal rights provide. As documented historically by the Anglo-American struggle over freedom of expression, prohibitions against government encroachment in themselves provide little assurance that legal protection will be honored. Already with George Washington there were complaints about the press, and government hostility warrants continuous vigilance. I certainly find no reason to be Pollyannish or to delimit the currently vigorous effort in journalism and law to clarify precisely what First Amendment freedom means. Who would deny the value of thorough attention to the press’s constitutional guarantees? Moreover, if one examines any of the recent conflicts between the press and government—the Pentagon Papers, the Fair Trial/Free Press controversies, the jailing of reporters over source disclosure, for example—one recognizes immediately the weightiness of this debate.

At this point I only want to reiterate the implausibility of bringing codes of ethics under the aegis of First Amendment rights, as done repeatedly in the Libertarian tradition. Three examples for disclaiming any enforcement of SPJ, SDX-type codes are illustrative:

For journalists to seriously contemplate an enforcement procedure designed to punish those who do not conform to someone’s preconceived set of moral rules is contrary to the meaning of the First Amendment which these journalists are trying to uphold in a misguided way (Call your lawyer, 1984).

If the press is afforded constitutional guarantees against any restriction on its freedom by Congress, there is no way such restrictive powers (as enforcing codes) could be granted to others (Harrison, 1974).
Enforcement of a code of ethics smacks of intimidation. In fact, it would become an infringement on our First Amendment rights (Long, 1978).

Such argumentation scores debaters’ points because of the media’s visceral attachment to their constitutional protection. But to use “Congress shall make no law abridging as an argument for not enforcing codes is logically fallacious and ignores the distinction between penal action by governments and moral sanction by private organizations. Efforts by a profession to enforce its code of ethics cannot be said to threaten First Amendment freedom directly. Judging one accountable in the second sense of accountability does not in itself, as a newspaper editor (McCord, 1975) once declared, put us “a few steps away from judges and legislators who impose restrictions on the activities of reporters.”

**Team Effort**

So far, I have attempted to lay aside journalism’s usual objections to enforced codes by contending that such reservations are based on faulty reasoning. This opens the door for considering more precisely the role of codes in the professional domain, where accountability implies moral sanctions. It is obvious enough that one cannot successfully maintain a community with explicit functions without attracting specific rebukes—such as those formulated in a code of ethics—for failing to meet obligations. Moreover, it seems incontrovertible that the notion of accountability as moral sanctions requires peer machinery to apply sanctions on behalf of the membership. People cannot be called into account for violating their communal obligations unless there are norms by which they can assign obligations and decide innocence or guilt. No accounting occurs without a visible process whereby agreed-upon principles function as arbiters of obligation. Clearly no one is accountable to everyone else for everything done. But denying that there are any enforceable codes is tantamount to claiming we are not accountable to others who share our profession.

My main concern here is to clarify the enforcement matter philosophically. Obviously, as we witness within SPJ, SDX itself, there are complicated problems involved in actually designing a set of enforcement procedures supervised by peers. But, it seems to me, once we recognize in good faith that we are inevitably and inescapably accountable as professional colleagues to each other, we will begin cooperating in implementing this commitment intelligently. When our easy arguments are stripped away, common sense and realism on the more precise matters will allow us to finalize the details.

Though with ambiguities, one potentially helpful development at present is the adoption of detailed codes by various broadcasting and newspaper employees. After the National Labor Relations Board ruled in 1976 that the Madison *Capital Times* could impose a binding code of
ethics on management and reporters, a host of newspapers formulated their own company policy. Some have been patterned directly after codes from professional associations (The Milwaukee Journal Company, for example, adopted the SPJ, SDX Code in December 1973). Others have emphasized particular standards (the Detroit Free Press, for example, specifically forbids the acceptance of outside gifts and the Roanoke (Va) Times and World News has explicit guidelines regarding anonymous sources). The 1980 APME Red Book identified 4 out of 5 American newspaper with ethics codes of some sort, whereas a 1960 study by APME’s Image Committee could locate “little or nothing.”

Management at present controls the initiative, and the interests of the Newspaper Guild must be brought more centrally into these company-by-company codes. The Jacksonville (Fla.) Journal and Florida Times-Union did involve the entire staff in preparing its code, but this top-to-bottom strategy is not typical. Assuming that company codes are not formed and imposed hierarchically, they do have distinct advantages. The codes of national associations cannot be as practical, itemized, and comprehensive. John Merrill (1983, pp. 137-45) legitimately scourges them as often vacuous rhetoric. Company-specific guidelines can elaborate the provisions in full detail; the Seattle Times, for instance, restricts reporters from entering their stories in certain kinds of promotions and contests. Setting local standards helps establish a company mystique and reputation, thereby decreasing the quandary of individuals within it and protecting them from outside wolves who assume everything is negotiable. As a minimum these codes could halt flagrant breaches of ethics and conflicts of interest, such as occur when columnists receive pay from politicians or financial writes trumpet their own stock. ⁶ The Springfield (Mass.) Republican, for example, makes inaccurate quotations unpardonable: “When people are quoted, the quoted passage is literally spoken.” The Louisville Courier-Journal and Times refuse all advertisements which “attack, criticize or cast reflection on any individual, race, religion, or institution.” CBS has explicit news standards for “Demonstrations, Riots, and Other Civil Disturbances.” Whereas in 1972 only 1.6 percent of 210 newspapers surveyed had a stated freebies policy, the figures had climbed to 35 percent one year after the SPJ, SDX code was adopted. In the 1982 SPJ, SDX Journalism Ethics Report, Steven Dornfield could claim—though with hyperbole—that freebies are now “as outdated as typewriters and glue pots.”

Enforced codes characterized by such specific guidelines can serve journalism professionals on the minimum level of what Henry Aiken labels rule obedience. This essay calls for a continual struggle with the issue of wise and effective enforcement rather than making the facile assumption that the problem is now safely in the hands of management. If we wish to enhance the professional shape of the press over the long term, writing and enforcing codes must continue vigorously within voluntary associations also.

The academy plays a vital role as well. In addition to supporting the current SPJ, SDX
enforcement effort with this theoretical and historical background, I call on journalism educators to develop a normative social ethics. Constructing a normative ethics with “giving an account” as its focus, can free us from the truncated parameters which confine the issues at present; as a minimum it provides a vocabulary, a framework, the soil from which accountability can grow. A generally accepted body of principles would free us from merely reacting to daily pressures when we write the guidelines. It would prevent us from leaning too heavily on constitutional guarantees and from bogging down emotionally. A finely honed ethics with cognitive substance can prevent hot-tempered moralism while goading us to recognize the moral issue. What we codify, and how we codify it, can benefit from a reservoir of value theory and informed ethical inquiry.

Serious attention to applied and professional ethics is one catalyst for further advance that can run in fruitful parallel with the adoption of enforce codes by companies and professional organizations. A normative ethics, purged of delusions and personal interests, would raise a stable anchor for daily practice. It would pester and stimulate us by an authoritative voice. Richard Wasserstrom’s (1975) convictions about his profession hold for journalism as well:

We might all be better served if lawyers were to see themselves less as subject to role-differentiated behavior and more as subject to the demand of the moral point of view.

Notes

1. For reflections on the Bonfils incident and enforcement, see Canham, 1968 and Jones, 1986.


3. Cf. Behringer (1984). Obviously there have always been a few voices for codes with teeth; see Record (1984) for example.

4. For helpful philosophical statements that have benefited my own formulation, see Blatz (1972) and Harris & Spanier (1976). Churchill (1977) provides a sociological analysis of how medicine, unfortunately, has trivialized the notion of accountability.

5. Thus Broadcasting’s editor concludes: “In the broadcasting establishment, it has been an enduring, of mystifying, myth that codes provide protection against government regulation. The facts prove otherwise” (8 March 1982, p. 194). The readiness with which NAB has dismantled its TV and radio advertising codes since Judge Greene’s antitrust ruling reflects widespread dissatisfaction with the
code apparatus. However, in my opinion, the problem with the NAB code has always been its contradictory purpose; these events do not indicate that ethics codes per se are without value.

6. John R. Finegan (St. Paul Pioneer Press and Dispatch, 21 March 1982, p. 2) contends that firing is the most effective weapon. He cites a study by Lawrence Beaupre of the Rochester (New York) Times-Union in which 25 percent of the newspapers contacted had dismissed or disciplined staffers for ethics violations. However, this often appears to employees to be heavy-handed and therefore a dangerous trend.

References


Call your lawyer. (1984, December 8). Editor & Publisher, p. 6.


