

# Practical, ethical and legal implications of astroturfing for public relations pr...

[Sociology](#), [Ethics](#)



“ They needed respect, and that they could earn. With false names, on the right nets, they could be anybody. Old men, middle-aged women, anybody, as long as they were careful about the way they wrote. All that anyone would see were their words, their ideas. Every citizen started equal, on the nets.”  
(Card, 1997)

In Orson Scott Card’s science fiction epic, *Ender’s Game*, two child geniuses use fake profiles to generate social and political unrest over the ‘ nets’. The novel was published in 1985, around the same time that the term ‘ astroturfing’ was coined. Almost thirty years later, reality is catching up with fiction, albeit in further unforeseen ways.

Astroturfing has become an increasingly controversial phenomenon. Pressure from clients and within the industry, means that astroturfing will have a huge impact on public relations. Practitioners should be aware of their legal and moral obligations.

The Public Relations Institute of Australia (PRIA) have condemned the practice; however, some larger public relations firms haven’t formally jumped on the band wagon.

Astroturfing can completely backfire if the practice is uncovered. It can also lead to legal problems if actions are found to be false, deceptive or misleading.

There are no current laws or precedents for astroturfing in Australia. This is due to the difficulty of proving deception under the law. However, it is a phenomenon with new importance given the rise of social media.

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Organisations and individuals can still be held liable under the Australian consumer protection laws if they are not careful.

The legality of astroturfing could change if the public relations culture in Australia jeopardises the rights of consumers and the general public.

However, before evaluating the effects of astroturfing and its ethical, legal and practical implications, it is necessary to understand what it is and the history behind it.

Astroturfing, as far as it applies under Australian law, is the publication of false testimonials or product reviews. It can appear in many forms: online through fake user accounts or through undisclosed funding to academic bodies. It is often associated with organisations that attempt to create fake grass roots support for their own benefit.

The term ‘ astroturfing’ was coined in 1985 by US Senator Lloyd Bentsen. The senator had received a ‘ mountain of cards and letters’ from insurance companies posing as concerned citizens. He reportedly said, “ A fellow from Texas can tell the difference between grassroots and Astro Turf.” (Kolivos, 2012)

The practice is common locally and overseas, especially with the advent of the Internet. It can be used by commercial organisations, political interest groups and public relations firms as a tool to manipulate public opinion.

The practice is hardly new, but the anonymity of internet, feedback sites and social media has led to a renewed epidemic of astroturfing.

Astroturfing can be traced back throughout history, particularly in politics. It is a common and effective propaganda tool. In Shakespeare's Julius Caesar, Cassius convinces Brutus that there is public support to assassinate Caesar by showing him fake letters from citizens.

In recent years in China an army of approximately 280, 000 internet commentators have been paid by the government to promote propaganda online. They have been dubbed the '50 Cent Party' for reputedly being paid RMB 0. 50 for each pro-government comment made (Bristow, 2008).

Other recent developments include 'Persona Management Software'. The software has been developed by the United States Air-force as revealed in June 2010 (Monbiot, 2011). It generates 'pre-aged' accounts from random changing IP addresses (used to locate persons online) that attempt to look as authentic as possible. These accounts are then used by human astroturfers to inconspicuously spruik products or positions online.

In 2005, one of the most publicised cases of astroturfing came to light, when it was discovered that Wal-Mart had set up a fictional blog account for marketing purposes. It turned out to be an even larger public relations disaster for the public relations firm responsible, Edelman. The blog centred around 'Jim' and 'Laura', a couple who were reportedly on an RV Trip around America visiting Wal-Marts. This story gained a lot of exposure in mainstream media (Gogoi, 2005). Even McDonalds have been accused of it. Bizarrely, in 2008, McDonalds in Japan hired people to stand in line for the release of one of their new hamburgers (Wade, 2011).

In Australia, in the political realm, it is estimated astroturfing has had a profound impact on public debate surrounding the mining supertax, the carbon tax and asylum seeker policies.

The implications of astroturfing in the private and public sector are still being felt and it remains a grey area. Although the PRIA condemn the practice, there is mixed opinion within the public relations sector. There has been little response against the practice from the larger public relations firms, such as: Burson-Marsteller, Edelman, Weber Shandwick and Porter/Novelli.

There have been several cases in Australia where front groups have been established to promote company interests. In 2011, the Landscape Guardians, linked with the Liberal Party, Institute of Public Affairs and several mining interest groups, established a front group called the Waubra Foundation. Despite being named the Waubra Foundation, the town of Waubra had limited involvement and later launched a campaign to dissociate itself from the group.

Waubra's crowning achievement was their championing of 'Wind Turbine Syndrome' – characterised by dizziness and headaches supposed caused by the eerie silence wind turbines made. The effect of the scare campaign meant that an estimated \$3 billion in wind investment sent off shore (admin, 2012).

Furthermore, in 2004 Westfield shopping centre group purportedly settled \$3.5 million out of court to Kirela, a rival retail property for setting up a false action group called the North Strathfield Residents (Hughes, 2004). Ken

Hooper, a public relations consultant at Westfield, set up the action group to ensure Kirela's planned development did not go ahead on the site of an old Arnott's biscuit factory. Westfield still maintained it did nothing misleading or deceptive, but acknowledged its fault for not being transparent over the 'Ken Hooper affair'.

In July 2006 public relations bloggers Trevor Cook, a Sydney-based public relations practitioner, and Jackson Wells Morris and Paul Young, sports public relations consultants at BAM agency, launched their own fight against astroturfing in Australia.

"Astroturfing is evil. Astroturfing is always unethical and usually illegal. It corrodes democracy which relies on transparency." (Cook, 2006)

Conversely Sydney-based public relations consultant Ravi Prasad says that it "depends on the client and depends on the circumstances" (ABC, 2011). While he does not advocate it, he is prepared to talk about it with some companies who want to astroturf as part of their public relations campaigns.

Channel 7 has employed astroturfing on Twitter to promote their show Dancing with the Stars. Various accounts were made specifically to spruik the show. As Leslie Nassar, an online technology expert explained in an interview with the ABC. Of the 10, 000 posts made on Twitter, 20 of them went on-air; and of those, 25 percent of those had only ever tweeted about the show and had only been created between 2. 30 and 3. 30pm that day (ABC, 2011),

As mentioned before, it has also been used to viciously attack political opponents and there are no specific ways to prevent astroturfing outside of a consumer context.

NSW Greens member Jan Barham had an account made under her name on Twitter. The fake account holder made various damaging comments to her reputation. A storm of negative comments were made against her – many written by yet more astroturfers. Barham made an attempt to track down the astroturfers, but could not get enough evidence to find them. Twitter has been a breeding ground for astroturfers seeking to sway popular opinion. Buying and artificially growing tweet followers have become a common practice.

For example, of Kevin Rudd's roughly 1.2 million followers, 32% are either fake or inactive according to a recent article in the Sydney Morning Herald (Fairfax, 2013). However, Rudd is hardly the only politician doing it. At the moment, it will continue to go along unchallenged as there are no laws mitigating astroturfing outside of a commercial context. The consumer protection laws do a little to prevent astroturfing in Australia. As a result, if an organisation decides to do so, they still must be careful about how they do it.

The ethical consensus on astroturfing is still unclear, but there is a growing trend against the practice. Still, a minority continue to exploit it, often operating in a perceived 'grey area'.

There has been a lot of public debate as to whether using fake identities to spruik opinions is ethical. Some consider it to be a useful promotional technique whilst others call it necessarily deceptive.

From an ethical perspective, the foundation of democracy is free speech. George Monbiot, an outspoken commentator for The Guardian in the United Kingdom, has said that astroturfing undermines free speech by drowning it out (Monbiot, 2011). This seems to be supported by data mining expert at the University of Illinois, Professor Bing Liu. He has conducted research that suggests almost one third of all customer reviews on the internet are false (Liu, 2012).

Merrill Rose former, executive, vice president of the public relations firm Porter/ Novelli, has said, ' there will be times when the position you advocate, no matter how well framed and supported, will not be accepted by the public simply because you are who you are.' (Bader, 1998)

Some consider astroturfing a tactic. In Ryan Sager's opinion piece in the New York Times, refers to the practice as being ' organised' not ' cheating' (Sager, 2009).

In the PRIA's code of ethics, they state that members shall not knowingly spread false or misleading information and that they shall disclose all sources of funding. Although astroturfing may conceal misleading information or bury sources of funding, it is possible to conduct the practice without doing so (PRIA, 2011).



The question for many practitioners is where someone draws the line? If one accepts that astroturfing, by assuming a false identity with the intention of skewing other's opinions, is necessarily deceptive, you run into a series of ethical dilemmas.

Do I have a responsibility as to how others disseminate my information? Is it unethical if, although my appearance is deceptive, the content of my message isn't false? If it's a matter of opinion, one only needs 'reasonable grounds' (s4 (2) ACL) for a statement not to be considered 'false' or 'misleading'.

Immanuel Kant argued that lying was intrinsically wrong. He drew this conclusion as he believed that our worth as human beings is derived from our capacity as rational agents. To be a rational agent, one has free choice. To be ethical, he surmised, is to respect that power to make free, rational choices within ourselves and others. Through deception, we take away our ability to make those rational choices.

This brand on deontological ethics, ethics where all actions are inherently good or bad, often leads people to the conclusion that lying or deception is almost always wrong. From a Kantian perspective, it seems even white lies, such as telling your girlfriend she 'doesn't look fat in that dress' could be unethical as they hinder our capacity to make rational choices.

However, what if the lie doesn't harm a person? What if by lying we are helping people to make a decision that we believe is in their best interests?

This line of reasoning more closely follows the teleological school of ethics. You could evaluate the dilemma in two different ways, from a utilitarian or a virtue-based perspective.

Virtue-based ethics focuses on a person's character. From this perspective, there are certain qualities that leave people with a predisposition to act in a certain way. In this scenario it is more subjective. If there is a conflict between virtues, we look at our character and decide how to act in accordance with it. In which case, telling your girlfriend your opinion that 'she looks fat in that dress' might not be the most virtuous of actions.

Utilitarianism, however, is a far broader ethical construct. To put it briefly, it is about the greatest happiness for the greatest number of people. In this case, getting slapped after telling your girlfriend she 'looks fat' just makes everyone unhappy. It is best to just keep that one to yourself. This is the most subjective of ethical constructs, and often has its own pitfalls. In Ursula K. Le Guin's philosophical parable, *The Ones Who Walk Away from Omelas*, utopia comes at the price of one suffering child living in misery (Le Guin, 1997).

However, in terms of our ethical dilemma, it is possible that deceptive astroturfing could be justified in this way. In *Ender's Game*, that I referenced earlier, the two children who orchestrate a complex astroturfing campaign do so in order to 'save the world from itself'.

Now that is an extreme point, and it is highly doubtful that other astroturfers have such noble aims. However, take the case of Channel 7's *Dancing with*

the Stars twitter account. If they manage to convince more people to watch the show, by showcasing fabricated positive comments, the people watching the show enjoy watching it and the station gets their ratings. Everyone might be happier for one marginally deceptive action.

The issue with teleological ethics is no-one knows where the finish line is. If the means justify the end, at what point does deceiving hundreds of thousands of Channel 7 viewers make it okay – if it helps keep their favourite show on air. Making an opinion that may not be your own is not a lie. Assuming a false identity in order to spread that opinion with ulterior motives is the deceptive part.

In the past astroturfing has been seen as a grey area, but changing attitudes mean it is increasingly seen as unethical. Whether an organisation adheres to that is wholly dependent on their own ethical guidelines.

When it comes to the law, however, certain things cannot be ignored. Although the law offers some protection, it mostly skirts the issue.

There are currently no specific laws in Australia against astroturfing. However, organisations may still be held liable under the consumer protection laws and self-regulatory advertising codes.

In 2004, the ACCC went to court with the Advanced Medical Institute (AMI) for false statements made by its celebrity endorser Ian Turpie. AMI were found liable and forced to pay the costs.

Matthew Hall is an intellectual property lawyer and attorney at SWAAB with Anna Yeo, who is an associate solicitor. According to them the reason there are no specific astroturfing laws is due to the difficulty of proving deception under the law.

In their article from 2011, *Astroturfing, Social Media and the Law*, though, the pair both state it is 'only a matter of time before... there will be legal actions related to astroturfing in this country' (Swaab Attorneys, 2011).

When the lawyers contacted the ACCC for comment, they stated it currently had no policy mitigating or penalising astroturfing. They also added, 'the issue of whether (the ACL prohibits) 'astroturfing' is likely to rest upon the circumstances, context, and representations made in each specific instance of such a phenomenon' (Swaab Attorneys, 2011).

In September 2011, the ACCC announced it intended to focus attention on misleading conduct online. They ACCC were to be heavily critical of sites that state they have government endorsement or support.

Outside of consumer law, there is little to prevent the practice of astroturfing. So when it comes to political groups rallying support by generating astroturf – which has been a hot topic issue in the United States given the rise of the Tea Party – there is almost nothing legally to prevent it. As it stands, there is currently no legislation in Australia that regulates accuracy or truth in political advertising (Hall).

Under the section 18 of the Australian Consumer Law, in order to engage in misleading or deceptive conduct, proof you intended to be misleading or deceptive is not necessary. It is also not necessary to prove that the conduct was misleading or deceptive, only that it could have been.

There are two specific sections of consumer law that mean a business or anyone transacting trade can be liable. These are section 139B and section 29 of the Competition and Consumer Act 2010 (CCA).

Section 29 of the CCA states that traders cannot make false representations. The section also prohibits, 'making false or misleading representation that purports to be a testimonial.' The consequences of this range from injunctions, damages, compensatory orders, and even civil pecuniary penalties up to \$1. 1 Million for corporate bodies and \$220, 000 for a single person.

In the case of ACCC v Allergy Pathway [2011] the ACCC filed for misleading and deceptive conduct when postings were made on a pharmaceutical company's Facebook wall (Kolivos, 2012). Though they were not charged specifically for assuming a false identity as was implied, they were charged for not taking down the postings even though they knew the testimonials were misleading.

In section 139B of the CCA, it states that persons may be liable for actions of their employees and contractors. In this case, if a company in no uncertain terms asked their employees to 'post feedback on their site as a satisfied

customer' the employers would be held liable for any legal actions made against the employee.

In 2010, Sydney blogger, Neerav Bhatt, who blogs about tourism and technology found suspicious comments on his blog. According to Bhatt, ' the comments looked innocuous, but at the bottom of the comment there was a direct link to a large government tourism organisation and within the text of the comments in several places there were specific words which were deep linked to pages on that tourism organisation's website' (ABC, 2011). This was carried out on seven other blogs. The comments were eventually traced back to a Sydney-based digital marketing agency who happened to be a major client of Tourism Australia. Although they were not charged, it illustrates the problems of outsourcing or delegating to other people within or outside of the organisation. Under 139B, Tourism Australia could be potentially be liable for any of the actions of an agent working on their behalf.

Outside of Australia, governments are handling the problem in a variety of ways. In the United Kingdom, Tim Pinto, a specialist in advertising and media law with Taylor Wessing, makes it clear that ' the law is not lagging behind' (Wade, 2011).

In the United Kingdom, under the Consumer Protection from Unfair Trading Regulations 2008, it can be a criminal offence to falsely represent oneself as a consumer or conduct misleading marketing. The penalties include an unlimited fine, or, two years imprisonment.

Things are still rapidly changing in the United Kingdom, as of March 2011, the Advertising Standards Authority (ASA) took over jurisdiction to rule over online advertisements. This has led to further regulation of online activity, particularly the practice of astroturfing.

In the United States of America the law has taken a slightly different tact. Given the perceived astronomical rise in astroturfing, the government have taken several steps to prevent the practice spreading by developing strong laws focussed on disclosure of payments.

In 2008, the Federal Trade Commission issued an updated policy change demanding disclosure of payments for all endorsements made online. In 2011, Tennessee-based public relations firm, Legacy Learning Systems, were fined \$250, 000 as a result of this after they were caught writing positive reviews for a client without disclosing who paid them (FTC, 2011)

Earlier in 2009, cosmetic surgery corporation Lifestyle Lift were charged \$300, 000 for fake online reviews that they wrote about themselves. The organisation reportedly emailed employees expressly stating, ' I need you to devote the day to doing some more postings on the web as a satisfied client' (Farsetta, 2009).

Though different governments are tackling the problem in a variety ways, it is safe to assume that astroturfing laws will only become more defined as social media and internet regulation becomes more prevalent.

Having discussed the ethical and legal implications of astroturfing there are several practical things public relations practitioners can do to protect themselves online and when confronted with the practice.

Increasingly clients come to public relations practitioners with ideas that fall straight into astroturfing. Typically they want to use internet and social media technology in spurious ways.

The issue for public relations practitioners is drawing the line. At the moment, there is not a particularly strong cultural or ethical stance against astroturfing. Many public relations firms still involved in the practice.

However, many institutions from the Public Relations Institute of Australia (PRIA) to the Public Relations Society of America (PRSA) are condemning the practice.

Gavin Ingham Brook, of the public relations company Spada, has warned practitioners of the dangers to the client when astroturfing. The backfire effect of exposure can be far more damaging than any benefits. In an interview with The Guardian, he stated that practitioners must 'build on trust, ethics and personal relationships.' His advice to other practitioners was that a, 'good public relations professional tells the truth well. They don't lie' (Monbiot, 2011).

In spite of the fluidity of opinions and changing laws, there are practical measures that public relations practitioners in Australia can follow to avoid being liable. These precautions are as follows:



1. Know your organisations ethics
2. You can be held accountable for misleading and deceptive conduct
3. You are liable for the actions of your employees and contractors

By following these recommendations, organisations can avoid running into sticky legal issues.

Public relations practitioners must know the organisation or client's ethical stance. What is the organisation willing to do and not willing to do? Are they fully aware of the risks if they wish to astroturf? As indicated by the ACCC and Ravi Prasad earlier in the essay, the dangers depend on the context under which astroturfing is practiced. Some can get away with it, particularly in politics, where it is very common.

Under Australian Consumer Law any organisation can be held liable for the actions of their employees. Once a stance is made, it is vital to communicate it with a clearly defined policy on social media participation etc. External advertising and marketing agencies must be told exactly what the company is and is not willing to do. Internal policy must also be circulated, so that employees are clear on the guidelines; this should form part of their terms of employment. If someone is the victim of astroturfing, there are measures they can make to minimise the damage. Often an official company profile can nip comments in the bud with a measured rational response.

An example of this was in 2013, when the State Theatre Company of South Australia's (STCSA) season launch was under threat. Their lead actor, Barry

Otto, had withdrawn from the much anticipated season launch by their new artistic director, which resulted in a minor crisis for the organisation.

Though mainstream press were compassionate, some incidents of astroturfing online came about through 'trolling'. These 'trolls' condemned the management of the company and tried to agitate the situation through the article comments pages. The STCSA reacted with a measured, apologetic response, which won over other online commentators (Adelaide Now, 2013).

Other companies such as hotel booking website Eviivo have addressed the issue on online 'trolls' slandering other companies, by making it a requirement of the commentator to have stayed in the hotel before reviewing it. Especially when on the internet, it is crucial to monitor blogs. Many sites are still struggling to deal with such 'trolls'. However, there are as many creative ways to minimise the damage of astroturfing, as there are ways to implement astroturfing itself.

In conclusion, astroturfing will become an increasingly controversial area and have many implications for public relations as a profession.

Given harsh criticism and public outcry, astroturfing seems to be moving out of an ethical and legal grey area. As this change happens, public relations practitioners will have to adjust their own perceptions and match the ethical standards espoused by organisations like the PRIA.

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