

Another one bites the dust. In posting a racist tweet that resulted in the US network ABC [summarily cancelling her show](#), Roseanne Barr joins a long line of people who have blown up their career with a social media post. And, as is always the case with such episodes, a prominent strand of the ensuing maelstrom will be all about “[free speech](#)”.

But what are the actual free speech implications of this episode?

Is this an issue of free speech?

ABC cancelled the series as a swift response to some late-night racist tweeting by Roseanne Barr, the series' eponymous main star. Barr had compared African-American woman Valerie Jarrett, a former adviser to President Barack Obama, to an ape.

Human rights, including the right of free speech under both international law and US constitutional law, generally apply with regard to government sanctions. It was not the US government but ABC that sanctioned Barr. Freedom of speech does not include the right to have one's show broadcast on a major network, even if one refrains from racist tweets.

Read more: [Commercial TV's rare leadership on Roseanne is a breath of fresh air](#)

Having said that, governments have obligations under international law to protect people from infringements of their rights by other people. For example, governments must take reasonable steps to prevent Person A from torturing Person B, or from invading Person B's privacy, or from discriminating against Person B on prohibited grounds. Similarly, governments must take reasonable steps to prevent Person A's freedom of speech being infringed by Person B. This is known as the “horizontal application of human rights”.

So, does the US government have an obligation to protect Barr (Person A) from prejudicial action by the ABC network (“Person B”) over her statements?

No human rights doctrine requires the US government to step in to prevent ABC from taking Roseanne off air. Barr herself has admitted that her tweet was “unforgivable”. Given the [history of such language](#) in the US (and in Australia), that tweet classifies as hate speech. ABC clearly has the latitude under human rights principles to respond by taking Barr off of its platform. Roseanne Barr’s right to free speech has not been infringed.

The chilling impact of social media

Regardless of the actual scope of the human right to free speech, there is no doubt the cancellation of Roseanne is an example of a negative consequence accruing to a person for an act of speech. Is this “political correctness gone mad”?

Despite familiar moans about political correctness, hefty consequences for acts of speech are mounting across the political spectrum. Barr is, famously, a vocal supporter of President Donald Trump, as is her alter ego Roseanne Conner.

I suspect many of his supporters are outraged by the cancellation of Roseanne, especially given the scarcity of Trump-supporting characters on network television. Yet many of those same supporters are also outraged by NFL players “[taking a knee](#)” during the playing of the US national anthem, and want them thrown out of the game. The outrage over those knees, stoked by Trump on Twitter, has led the NFL to introduce fines for such protests in the future.

Similarly, in Australia, some who vehemently support the removal of section 18C of the Racial Discrimination Act called for the sacking of [Yassmin Abdel-Magied](#) from the ABC over her Facebook post on Anzac Day 2017. Indeed, soccer commentator [Scott McIntyre](#) lost his job at public broadcaster SBS because he posted tweets about Anzac war crimes on Anzac Day 2015.

Read more: [Free speech is at risk in Australia – and it's not from Section 18C](#)

While social media represent an unprecedented tool for the broadcasting of speech for free to an unlimited audience, this has simultaneously increased the penalties for “errant” speech.

In the past, people would gather at the apocryphal “water cooler” to express disapproval of the public actions of a particular person – those sentiments would then disappear into the ether.

With social media, grievances are recorded and shared, which can spur many, even hundreds and thousands, to pile on to that criticism. There is now a record of what one has said, the reactions to it, and then reactions to the reactions. Those reactions can “spook” a network like ABC to respond to protect its brand.

Brands and speech

ABC’s explicit reasons for cancelling Roseanne were that her tweet was “abhorrent, repugnant and inconsistent with our values”.

ABC is a corporation with a brand to protect. As is becoming common with many companies, it will protect that brand by adhering, or claiming to adhere, to certain “values”. Those values are shaped, increasingly, by a perceived need to respond to social media in a way that did not happen with the old water cooler.

To be fair to ABC, part of its adherence to, or at least proclamation of, such values will be directed at preserving the morale of its own employees rather than simply to preserving profit. Furthermore, the rebooted Roseanne was enormously popular, so it is difficult to assert that its brand protection in this instance will save it rather than lose it money.

While I do not feel sorry for Roseanne Barr, I am generally uncomfortable with the [increasing](#)

[phenomenon](#)

of employers sacking or disciplining people due to statements in their private time that conflict with the employers' stated "values".

This blurs the line between a person's working life and their life outside work. It also presumes a certain responsibility on the part of the employer for the employee's speech. And that presumption will lead inevitably to the exercise of greater control, generally, of employers over the actions and words of their employees, inside and outside work.

However, this may be another inevitable consequence of social media. Our public selves, for most of us, are our "work" selves. Social media disappear our private "non-work" selves due to the "public-ation" of previously private speech, whether that be a person's own speech or the speech of others who are criticising that person.

The public nature of the latter type of speech, essentially the now-visible and potentially global water cooler, demonstrates that a person cannot necessarily avoid this blurring of public and private by staying off social media themselves.

This is not only a problem for public figures like Barr. Unknowns, like one [Justine Sacco](#) whose offending tweet was sent to 170 followers, have also lost their careers.

Art and the rights of the audience

Barr's Twitter persona spun off her huge public celebrity, which the Roseanne reboot further enhanced. The above concerns regarding public consequences for private behaviour seem less applicable in her case.

Barr is most famous for creating a [groundbreaking 1980s comedy](#) called Roseanne, which centres on the blue-collar Conner family. The rebooted version was very successful and largely (but [not totally](#)) well received. Whether one likes her comedy or not, it is fair to call her an artist.

Roseanne's implosion: when art, freedom of speech and social media collide

Written by Sarah Joseph, Professor, Director, Castan Centre for Human Rights Law, Monash University

Roseanne was not cancelled due to anything said by Roseanne Conner, but by something said by her creator, Roseanne Barr. Art is being removed due to disapproval of the artist. The creations of others, such as John Goodman's iconic Dan Conner, are also being removed. Even [reruns of the old Roseanne](#) have been cancelled alongside the reboot.

There are other examples of art being removed due to disgust at the artist. The following examples move beyond disapproval of speech into disapproval of the alleged awful actions of artists. Kevin Spacey has been [deleted from a movie](#). The [Doctor Blake series](#) starring Craig McLachlan is no longer available on ABC iView. Both men have been accused of sexual harassment and assault. The paintings of [Rolf Harris](#) and [Dennis Nona](#) have been removed from public view. Both men have been convicted of sexual assault.

None of these men has a human right that their art be displayed on particular platforms like the ABC, just as Barr has no human right that ABC continue to show Roseanne. But there is another side to free speech other than the rights of the speaker to consider. That is the rights of the audience to receive ideas from speech, including through artistic mediums.

The conflation of art with the character of its creator is understandable. But I fear much will be lost if good behaviour is a requirement of artists.

There are terrible people who were very good artists: one can refer to [Caravaggio](#), [Gauguin](#) and [Picasso](#). Numerous rock musicians, including the late and beloved [David Bowie](#), have been credibly accused of sexual crimes.

Read more: [***Friday essay: the politics of the US family sitcom, and why Roseanne rocks***](#)

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The music-streaming service [Spotify](#) recently made the decision to ban hate speech from its playlists and, in certain cases, its platform. Such speech can of course arise [in lyrics](#)

. Spotify extended its ban to cover hateful behaviour by artists, unrelated to their music.

While Spotify is hardly the only source of music, it has a huge and growing influence on what people listen to. Hence, its decisions have a massive impact on the type of music that is accessed.

The first artists affected by Spotify's policy were African-Americans accused of sexual violence. But numerous songs that celebrate sexual violence, or songs by artists credibly accused of such, remained. A [backlash ensued](#), with "a white company" being accused of "[blocking out predominantly black music](#)

". As of this week, Spotify has [partially retreated](#)

from the policy, though its final form remains unclear.

Where does this leave us?

It does not seem that any backlash will save Roseanne. While many on social media are bleating about free speech, and [Barr's own contrition](#) seems to have dissipated, even high-profile conservative commentators like Bill O'Reilly and Sean Hannity have condemned her. Trump has not defended her (though, in [typical fashion](#)

, he has made himself the victim). Her [co-stars](#)

, collateral damage alongside the writers and crew, have abandoned her.

If any tweet deserves that response, it is probably Barr's, especially alongside her bizarre accusation that Holocaust survivor [George Soros](#) was a Nazi.

Nevertheless, we must remain vigilant to ensure that corporate brand protection does not morph into 24/7 moral arbitration of employees and contractors.

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As for art, [something is lost](#) if the Roseanne reruns do not turn up somewhere. Artistic merit is not correlated with bad behaviour. But nor, as Spotify is realising, is it correlated with good.

Sarah Joseph does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

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