

A Consultative Document A Broadcasting Code for the Republic of Trinidad and Tobago



1. INTRODUCTION

A. PURPOSE

This consultative document contains a draft Broadcasting Code (hereinafter called “the Code”) which creates a regulatory framework designed to enable the Telecommunications Authority of Trinidad and Tobago (hereinafter called “the Authority”) to balance the conflicting rights and interests of stakeholders while promoting acceptable standards through the introduction of protective provisions.

The rights and interests related to broadcasting are varied and complex: broadcasters have a right to freedom of expression, and individuals have a right to receive information. Yet, individuals also have the right to privacy and to respect for their family life and they are protected in law against defamation. Society as a whole has an interest in the protection of national security, the prevention of crime, and the maintenance of ethical and cultural standards.

B. PRINCIPLES

The overriding principles which inform the Code are respect for the right of adults to choose the programming they want, while protecting children and young persons from unsuitable material through appropriate scheduling and the need to protect persons from harm or unnecessary offence.

C. OBJECTIVES

The objectives outlined in the Code are:

To ensure that children and young persons are neither harmed nor misled by the transmission of inappropriate and/or inaccurate material;

- To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful or offensive material;

- To ensure that material likely to encourage or incite the commission of crime or to lead to disorder is not included in television or radio services;

- To ensure that programmes do not involve any abusive treatment of persons on the basis of the racial group to which they may belong and to treat all groups with due impartiality;

- To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality;

- To ensure that citizens receive a sufficient range of information, views and opinions, as well as facts, so that they can make well-informed political decisions;

- To ensure that broadcasters avoid unjust or unfair treatment of individuals or organizations;

- To ensure that broadcasters respect the privacy of individuals in programmes and in connection with obtaining material included in programmes;

- To ensure that members of the public are able to correct inaccuracies or misleading information broadcast in relation to them or organisations to which they are affiliated;

- To ensure that viewers and listeners are given adequate information or warning about programming that contains any material that is capable of offending viewers or listeners;

- To ensure that news content and advertising are kept distinct so that members of the public are not confused, to ensure that advertising pressures do not compromise the integrity of information provided by the broadcaster, to prevent misleading information being given to the public, and to ensure that advertising does not cause unnecessary harm or offence;

- To ensure that programmes do not involve any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination and that there is no improper exploitation of any susceptibilities of the audience for such a programme.

E. CONSULTATION PROCESS

On April, 18 2005 the Telecommunications Authority released a draft consultative document “Development of the National Broadcasting Code for the Republic of Trinidad and Tobago”. The Authority engaged in a consultation process which involved receipt of comments on the draft Code from those who attended stakeholder meetings and those it received by telephone, direct mail and e-mail.

The Authority has revised the draft document taking into consideration the comments and recommendations received in the first consultation round. One of the critical issues in the first

round consultation was the need to involve certain stakeholders at a formative stage, so the Authority utilised a more inclusive approach to drafting of the document, which included the engagement of consultants with expertise in the media and broadcasting industry who engaged in consultation with stakeholders during the drafting process.

The revised approach has resulted in substantial revisions to the previously existing document. Perhaps most significantly, the Authority has revised its approach so as to formulate a Code which contains Rules



D. SCOPE

The Code contains Rules for regulating the content of programmes and material transmitted by radio and TV broadcasters.

The Code speaks to:

- Broadcasters’ responsibilities towards the family, children and the community;

- Observance of standards with respect to the treatment of violence, crime, drugs, sex, news, current affairs and advertising; and,

- Fairness in dealing with controversies, personal attacks, politics and religion.

The Code also outlines procedures for receiving complaints and for redress. The broadcasting services to be regulated by the Code are free-to-air radio, free-to-air TV and the basic (or general audience) package of subscription TV broadcasters.

The Code prescribes specific standards for the broadcast of free-to-air radio and television programmes in relation to a number of issues including the following:

- Protection of children and young persons
- Harm and offence
- Crime
- Race
- Due impartiality and due accuracy in the reporting of news
- Election coverage
- Fairness and privacy
- Right of reply
- Information and warnings
- Advertising and sponsorship
- Religion

Subscription television is subject to

an element of choice by adult subscribers and addresses many of the issues which militate in favour of regulation of the content broadcast by subscription broadcasters.

Notwithstanding this, it remains important to ensure that persons are able to select a range of programming which complies with the provisions of the Code so that parents are able to control material accessed by children and young persons, and also to ensure that persons are not subjected to undue harm and offence.

Accordingly, while much of subscription television may be outside the scope of the Code all customers of subscription TV services must have the ability to select from the packages offered by the broadcaster, a general audience package which will be subject to the same rules that apply to free-to-air TV.

The general audience package should comprise material designed for general audiences but must contain at a minimum, news, inclusive of news from a domestic broadcaster in Trinidad and Tobago.

Optional packages or premium content only available to subscribers at an additional fee will not be regulated by this Code and the broadcaster must indicate clearly to subscribers prior to their subscription whether or not a particular package or content is compliant with the provisions of the Code.

The broadcaster must have in place parental control mechanisms and safeguards which are adequate to ensure that subscriptions can only be purchased by adults and that optional packages and premium content can only be selected by adults.

which must be complied with by broadcasters, as well as a separate document containing Guidelines, which will aid in the interpretation of the Rules. This approach was adopted because of the prevalence of confusion regarding the manner in which particular clauses would be interpreted by the Authority. It should be noted that the Guidelines are intended to be a more fluid document, with revisions being made based on experiences in implementation of the Code.

The Authority is now inviting comments on both the Code and the Guidelines. The draft Code is contained in Section 3 of this Consultative Document,

while the Guidelines are set out in Section 4.

The Authority is now seeking the views and opinions of interested parties regarding the proposals made in this revised consultative document in accordance with the Authority’s Procedures for Consultation in the Telecommunications Sector of Trinidad and Tobago. The process for consultation will include public meetings as well as targeted stakeholder sessions, and will be outlined by the Authority in public advertisements.

The deadline for the receipt of written comments on the Code and the Guidelines is August 29, 2008.

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2. HOW TO USE THE CODE AND GUIDELINES

The draft Code is set out in Section 3 of this consultative document. The Code identifies Objectives and Rules. The Objectives represent the desired result of the regulations, while the Rules are measures designed to achieve the objectives.

Rules are those provisions with which broadcasters must comply, and are set out in Part C of the Code. Breach of a Rule is a breach of the Code, for which the Authority may impose sanctions in accordance with the Code. The Objectives will be used as an aid to the proper interpretation of the Rules where required.

Enforcement and Compliance: The Code sets out the procedure for making complaints to the Authority, and also the procedures and principles through which the Authority will implement and enforce the Code, including a system for graduated sanctions.

A separate document entitled Guidelines on the Broadcasting Code (“the Guidelines”) is contained in Section 4 of this consultative document. The Guidelines are intended to assist broadcasters and the public in interpreting the Rules. They should be read in conjunction with the Rules. Failure to follow the Guidelines does not in itself constitute a breach of the Code provided that the broadcaster otherwise complies with the Rules. The Guidelines will be revised by the Authority from time to time as appropriate, to ensure that the contextual basis for the Code remains.

3. THE DRAFT BROADCASTING CODE

A. INTERPRETATION OF TERMS

In this Code, the following terms shall have the meanings ascribed, or be interpreted in the following manner:

AUTHORITY

Telecommunications Authority of Trinidad and Tobago.

BROADCASTING SERVICE has the meaning given in the Act.

BROADCASTER

A concessionaire authorised to provide a broadcasting service as defined in the Act.

TELECOMMUNICATIONS

has the meaning given in the Act.

ABUSIVE TREATMENT

Treatment of an issue or individual in a manner that causes injury or gives offence without reasonable justification as outlined in the Code.

BASIC PACKAGE

package available within the basic subscription tariff which is geared towards viewing by general audiences.

CHILDREN

Persons under the age of 14 years.

CHILDREN'S PROGRAMME

A programme that is intended for audiences under the age of 14.

CONTEXT

Circumstances within which a particular programme is broadcast having regard to the following factors:

- editorial content of the programme, programmes or series;
- service on which the material is broadcast;
- time of broadcast;
- other programmes are scheduled before and after the programme or programmes concerned;
- degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description;
- likely size and composition of the potential audience and likely expectation of the audience;
- extent to which the nature of the

content can be brought to the attention of the potential audience, for example, by giving information; and,

- effect of the material on viewers or listeners who may come across it unawares.

DUE IMPARTIALITY means that there is no significant imbalance of views or opinions aired within coverage of matters of political or industrial controversy or matters relating to current public policy. “Due” is an important qualification to the concept of impartiality.

Impartiality itself means not favouring one side over another.

“Due” means adequate or appropriate to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.

EXPERT OPINION

An opinion given by a person recognized by a wide cross-section of people, or through relevant qualifications from an accredited institution, as knowledgeable in a specific field.

FAIR

This term is used in the Code in the sense of not acting unjustly, of being upfront and open about intentions so as not to deceive, and adhering to established good journalistic practice in treating with members of the public. It does not mean “treating people or issues equally”. The term’s other meaning of “appropriate in the circumstances” will be defined by reference to public interest considerations.

LIFE-CHANGING ADVICE

Advice upon which persons could reasonably be expected to act or rely in respect of their health, finances, employment, or personal relationships.

OPTIONAL PACKAGE

subscribers within the base subscription price.

1.3 The basic package should comprise material designed for general audiences but must contain at a minimum, news, including news from a domestic broadcaster in Trinidad and Tobago.

1.4 Optional packages or premium content only available to subscribers at an additional fee will not be regulated by this Code and the broadcaster must indicate clearly to

Premium content available only to subscribers paying additional monthly or other fees to their subscription TV providers.

PERSONAL VIEW/ AUTHORED PROGRAMME

A programme presenting a particular view or perspective. Personal view programmes can include the outright expression of highly partisan views. Such opinions may be expressed by a person who is a member of a lobby group and is campaigning on the subject; or they may be the “authored” view of a journalist, commentator, or academic with professional expertise or a specialisation in an area which enables them to express opinions which are not necessarily mainstream.

MATTERS OF POLITICAL OR INDUSTRIAL CONTROVERSY

Matters on which politicians, industry and/or the media are debating. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example, non-governmental organisations, relevant CARICOM institutions, etc.

PROGRAMMES INCLUDED IN ANY SERVICE...TAKEN AS A WHOLE

All programming on a service dealing with the same or related issues within an appropriate period.

PUBLIC FIGURE

Any person who occupies a position or office through which they regularly interact with citizens personally or through the media, and whose names and/or appearance are known to a significant number of persons with whom they have no personal relationship.

PUBLIC INTEREST

Matters which may reasonably be judged to have an impact on the population as a whole, or groups of citizens. It includes, but is not limited to detecting or exposing crime or serious impropriety, corruption or professional incompetence that affects

members of the public; protecting public health or safety; or preventing the public from being misled by an action or statement of an individual or organisation.

RACIAL GROUP

A group of people distinguished from others on the basis of common heritage or common genetically linked physical characteristics.

RACIST

A person who views most or all members of a particular racial group as having negative character traits which are innate. Therefore, a racist statement is one which identifies a racial group in such terms.

REASONABLE PERSON

An individual who sensibly exercises qualities of attention, knowledge, intelligence and judgment in a given context without highly-biased opinions unsupported by evidence, highly partisan opinions, or extremist beliefs.

RELIGIOUS PROGRAMME

A programme which deals with matters of religion as the central subject, or as a significant part of the programme.

SCIENTIFIC DATA

Information which is based on research carried out by scientists and which has been published in a peer-reviewed journal.

SERIES

A set of programmes which are editorially linked and deal with the same or related issues within an appropriate period and aimed at a like audience.

A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.

SOUND SOCIAL CONCEPTS

Concepts which are based on up-to-date research on psychology and consensus on shared values and accepted standards in Trinidad and Tobago.

WARRANTED means where the public interest demonstrably outweighs the right to privacy.

WATERSHED

The period outside of which, material that is unsuitable for children cannot be shown on television.

The watershed commences at 9 p.m. and ends at 5:30 a.m. on the following day.



B. SCOPE AND APPLICABILITY

1.1 Any person granted a concession for the provision of broadcasting services shall comply with the provisions of the Code.

1.2 A holder of a concession for the provision of a subscription broadcasting service shall ensure that it provides to all subscribers of that service, a basic package which shall be subject to the same rules that apply to free-to-air broadcasts.

That package shall be provided to sub-

scribers prior to their subscription whether or not the package or content is compliant with the provisions of the Code.

1.5 Subscription TV broadcasters must have in place parental control mechanisms and safeguards which are adequate to ensure that subscriptions can only be purchased by adults and that optional packages and premium content can only be selected by adults.

1.6 Where the Authority considers it

appropriate, it may establish, by publication in the *Gazette* and in one daily newspaper with circulation in Trinidad and Tobago, Guidelines on any Rule contained in this Code, which shall be used to aid concessionaires and other persons in the interpretation of that Rule, or to provide clarity as to the manner in which compliance with the Rule may be achieved.

The Authority may at any time refine or modify any Guideline established in accordance with this Code.

Consultative Document on a Broadcasting Code

C. RULES

1 Protecting children and young persons Objective: To ensure that children and young persons are neither harmed nor misled by the transmission of inappropriate and/or inaccurate material.

Scheduling

1.1 Broadcasters shall use appropriate scheduling to protect children from unsuitable material.

“Appropriate scheduling” should be judged according to:

- The nature of the content;
- The likely number and age range of children in the audience, taking into account the time of transmission, weekends and school holidays;
- The start time and finish time of the programme;
- The nature of the channel or station and the particular programme; and
- The likely expectations of the audience for a particular channel or station at a particular time and on a particular day.

1.2 Television broadcasters must comply with the watershed. (See *Interpretation of Terms for explanation of “watershed”*.)

1.3 Radio broadcasters must have particular regard to times when children are likely to be listening.

Language

1.4 Offensive language shall not be broadcast before the watershed or when children are likely to be listening, unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed.

1.5 The most offensive language shall not be broadcast before the watershed or when children are likely to be listening.

1.6 Offensive language shall not be used in children’s programmes.

Violence

1.7 Children’s programmes shall not contain realistic scenes of violence which minimise or gloss over the effects of violent acts. Any realistic depictions of violence shall portray in human terms the consequences of that violence to its victims and perpetrators.

1.8 Non-animated children’s programmes shall only portray violence when it is essential to the development of character and plot.

1.9 Children’s programmes shall deal carefully not gratuitously, with themes which could threaten their sense of security.

1.10 Children’s programmes on television shall deal carefully with themes which could invite children to imitate acts which they see on screen.

Sexual themes

1.11 Programmes which portray children in a sexual fashion are not acceptable, except where editorially justified in the context of a dramatic or information programme dealing with the specific issue of sexuality.

1.12 Broadcasters shall ensure that programmes that take incest or child abuse as their topic or themes shall provide suitable warnings prior to airing and shall be appropriately scheduled in accordance with Rule 1.1. Broadcasters shall also provide information on relevant help-lines. Material of this nature should be treated with the utmost care and sensitivity by broadcasters, bearing in mind the psychological effects it might have on child victims.

1.13 Any discussion or portrayal of sexual behaviour must be editorially justified if included before the watershed or when children are likely to be listening, and must be appropriately limited and inexplicit. Representations of sexual intercourse must not occur before the watershed (See *Interpretation of Terms for explanation of*

“watershed”) or when children are likely to be listening, unless there is a serious educational purpose.

Nudity

1.14 Nudity on television before the watershed must be justified by the context. (See *Interpretation of Terms for meaning of “context”*.)

Drugs, Alcohol, Solvents and Smoking

1.15 The use of illegal drugs, the misuse of alcohol, solvent abuse and smoking must not be condoned, encouraged or glamorised in programmes shown before the watershed or when children are likely to be listening, unless there is editorial justification.

Participation of children in programmes

1.16 If a contributor to a programme is under 18 years of age, consent shall be obtained from a parent or guardian or other person of 18 or over *in loco parentis*. In particular, persons under 18 years should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent.

1.17 Children must not be caused unnecessary distress or anxiety by their involvement in programmes.

Children and crime

1.18 Where children are accused or convicted of crimes, broadcasters shall at all times avoid broadcasting their names and/or images.

1.19 In reporting certain kinds of crime, such as sexual assaults or incidents involving children, the time of transmission and the need for protection of the children involved must be taken into account and the degree of explicit detail matched to the probable presence of children listening or viewing. Steps should be taken to minimise psychological trauma to children.

2 Harm and Offence Objective: To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful or offensive material.

2.1 Broadcasters shall ensure that their programming contains no gratuitously abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental disability.

2.2 Where a third party, for example a caller on a talk show, does not comply with the rules set out in this Code, broadcasters are obliged to terminate calls or otherwise prevent the person from continuing and make an apology immediately or as soon as possible thereafter.

2.3 Humorous or satirical programmes shall not be treated to be in breach of this rule, provided that the humorous or satirical intent is clear to any reasonable person. (See *Interpretation of terms for the meaning of “reasonable person”*.) However, this does not permit the use of threats toward any individual or group. (See *Summary Offences Act, Section 50*.)

2.4 Programmes must not include material (whether in individual programmes or in programmes taken together) which, taking into account the context, condones or glamorises violent, dangerous or seriously anti-social behaviour and is likely to encourage others to copy such behaviour.

2.5 If television broadcasters, using their best editorial judgement, decide that violent or graphic images should be broadcast (for example as part of a news broadcast), an appropriate warning shall be given before such images are put on screen in accordance with Clause 10.

2.6 Television broadcasters shall avoid

broadcasting material which displays cruelty to animals. This rule shall not apply to news items or documentaries dealing with this issue, nor to dramatic presentations provided such depictions are not gratuitous.

2.7 Demonstrations of exorcism, the occult, the paranormal, divination or practices related to any of these that purport to be real (as opposed to entertainment) must be treated with due objectivity.

2.8 If a demonstration of exorcism, the occult, the paranormal, divination or practices related to any of these is for entertainment purposes, this must be made clear to viewers and listeners.

2.9 Demonstrations of exorcism, the occult, the paranormal, divination or practices related to any of these (whether these demonstrations purport to be real or are for entertainment purposes) must not contain life-changing advice directed at individuals.

2.10 Details of methods of suicide and self-harm shall not be included in programmes unless editorially justified.

2.11 Broadcasters should ensure that when a competition is broadcast, it is run fairly, prizes should be described accurately and the rules should be clear and made known.

3 Crime Objective: To ensure that material likely to encourage or incite the committing of crime or to lead to disorder is not broadcast.

3.1 Material likely to encourage or incite the committing of crime or to lead to disorder shall not be broadcast.

3.2 Descriptions or demonstrations of criminal techniques which contain essential details which could enable the committing of crime must not be broadcast unless editorially justified.

3.3 Broadcasters shall not act in a way that might prejudice the detection and prevention of crime.

3.4 Broadcasters shall use their best endeavours so as not to broadcast material that might endanger lives or prejudice the success of attempts to deal with a hijack or kidnapping.

3.5 Broadcasters shall use crime statistics in a manner which accurately reflects trends and existing conditions.

3.6 Broadcasters shall not transmit any programme, information or other material which endangers the security of the Republic of Trinidad and Tobago, or which is hostile to any country.

4 Race Objective: To ensure that programmes do not involve any abusive treatment of persons on the basis of the racial group to which they may belong and to treat all groups with due impartiality.

4.1 Broadcasters shall avoid the use of derogatory racial labels, save where justifiable by the context. (See *Definition for meaning of “context”*.)

4.2 Broadcasters shall not allow any statements which denigrate or negatively stereotype individuals on the basis of race, when such statements imply that all individuals possess the same negative traits solely on the basis of race. This rule shall not apply to programmes which are solely satirical. When racist statements are made by callers to call-in programmes, the presenter(s) should correct or make clear the inappropriateness of such statements to the callers. (See *Interpretation of terms for meaning of “racist”*.) Where the caller persists with the objectionable conduct, the broadcaster should terminate the call.

4.3 When broadcasting programmes that treat with racial matters, broadcasters should ensure that opportunities are provided for different viewpoints to be included in the broadcast.

5 News and Public Affairs Objective: To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

5.1 News, in whatever form, must be reported with due accuracy and presented with due impartiality. (See *Interpretation of Terms for meaning of “due impartiality”*.)

5.2 News broadcasts should not be used to make editorial comments or for the purpose of promoting or downplaying either side of any matters of political or industrial controversy.

5.3 Analysis and opinion, including personal view or authored programmes, must be clearly labelled as such and kept distinct from regular news presentations.

5.4 Background to news, news analysis, and opinion, save in the case of political or special-interest opinion, must be based, as appropriate, on the most reliable scientific data, sound social concepts, and expert opinion.

5.5 Broadcasters must ensure they have adequate evidence to support the accuracy of news.

5.6 Significant errors in news should normally be acknowledged and quickly corrected on-air. If immediate correction is not possible, corrections shall be appropriately scheduled to reach the same audience which originally received the misinformation.

5.7 Provided that the producer and host(s) of talk shows and call-in programmes make clear to the audience, by appropriate means, that they are partial to a particular viewpoint, ideology, or have a particular political allegiance, such talk shows and call-in programmes shall be exempted from the requirement to be impartial and balanced.

5.8 No politician holding office may be used as a newsreader, interviewer or reporter in any news programme unless, exceptionally, it is editorially justified. In such a situation, the political allegiance of that person must be made clear to the audience.

5.9 Broadcasters shall make every attempt to get accurate names of victims, including addresses in order to avoid misidentification.

6 Elections Objective: To ensure that citizens receive a sufficient range of information, views and opinions, as well as facts, so they can make well-informed political decisions.

6.1 For stations which have news content, or which carry news or current affairs features, broadcasters shall ensure that the political parties and persons contesting local or general elections are offered a reasonable opportunity to have their views and opinions aired. What is “reasonable”, in terms of time given and number of persons, shall be determined by editorial judgement.

6.2 When hosting political discussions or debates involving partisan speakers, the broadcaster shall make clear throughout the programme, the political nature of the programme and the specific partisan affiliations of the speakers.

6.3 When allegations are made by a political party or its officials about members of another political party, they should be given an opportunity to respond within a reasonable period. If this is not possible, or likely to be possible, the broadcasters shall make it clear that such allegations are unsubstantiated.



6.4 Broadcasters shall not use race, ethnicity or religious beliefs as a basis for denigration of persons' political affiliation. This Clause does not apply to political analyses based on race, ethnicity, or religion.

6.5 Where a broadcaster takes a decision to support a political party during an election campaign, this decision shall be communicated to the audience before any editorial comment.

6.6 Broadcasts by or on behalf of political parties shall be identified as such.

7 Fairness Objective: To ensure broadcasters avoid unjust or unfair treatment of individuals or organisations

NOTE: This clause (as with the clause on Privacy) is different from the other clauses of the Code. The clause contains only one Rule, but then sets out "practices to be followed" by broadcasters when dealing with individuals or organisations participating in or otherwise directly affected by programmes as broadcast. Following these practices may not in all cases avoid a breach of this clause. The Code does not and cannot seek to set out all the "practices to be followed" in order to avoid unfair treatment.

7.1 Broadcasters must avoid unjust or unfair treatment of individuals or organisations.

Practices

i. Broadcasters and programme makers shall be fair in their dealings with both potential current contributors to programmes unless it is justified in the public interest or under other Clauses of this Code. When a programme is edited, contributions shall be presented fairly.

ii. Where a programme includes a contribution from a vulnerable person who by reason of ill health, mental or physical disability or otherwise is not in a position to give consent, their guardian or other person with primary responsibility for their care should normally give it on their behalf.

iii. Guarantees given to contributors, for example relating to the content of a programme, confidentiality or anonymity shall be honoured unless justified.

iv. If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond in accordance with the Rules relating to the Right of Reply.

v. Where a person approached to contribute to a programme chooses to make no comment or refuses to appear in a broadcast, the broadcaster shall make clear that the individual concerned has chosen not to appear and shall give the explanation given by the individual for not appearing, if it would be unfair not to do so.

vi. Where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner.

vii. Broadcasters should not use deception to obtain information, audio or film unless either it is warranted in the public interest, or the material is for entertainment purposes and the consent of all the identifiable participants has been obtained prior to broadcast.

8 Privacy Objective: To ensure that broadcasters respect the privacy of individuals in programmes and in connection with obtaining material included in programmes.

NOTE: This clause (as with the clause on Fairness) is different from the other clauses of the Code. The clause contains only one Rule, but then sets out "practices to be followed" by broadcasters when dealing with individuals or organisations participating in or otherwise directly affected by programmes as broadcast. Following these practices may not in all cases avoid a breach

of this clause. The Code does not and cannot seek to set out all the "practices to be followed" in order to ensure respect for the privacy of individuals.

8.1 An individual's privacy shall not be infringed, unless warranted, in programmes, or in connection with obtaining material included in programmes. (*See Interpretation of Terms for meaning of "warranted".*)

Practices

i. Information which discloses a person's contact details or location of a person's home or family shall not be broadcast without that person's permission, unless it is warranted in the public interest to do otherwise.

ii. When people are involved in events in any place including a public place, which are covered by the news, broadcasters shall respect their right to privacy in both the making and the broadcast of a programme, unless it is warranted to infringe it. This applies both to the time when these events are taking place and to any later programmes that revisit those events.

iii. Broadcasters shall ensure that words, images or actions filmed or recorded in, or broadcast from a public place, do not require prior consent if broadcasting would constitute an invasion of privacy.

iv. Any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted.

v. If the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Callers to phone-in shows are deemed to have given consent to the broadcast of their contribution.

vi. If an individual or organisation's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the broadcaster shall do so, unless it is warranted to continue.

vii. When filming or recording in institutions, organisations or other agencies, permission shall be obtained from the relevant authority or management, unless it is warranted to film or record without permission. Individual consent of employees or others whose appearance is incidental or where they are essentially anonymous members of the general public, will not normally be required.

viii. Broadcasters shall not electronically record the actions or words of private individuals in public places, when such recordings would result in humiliation, embarrassment, or in *public opprobrium* to such individuals. This practice shall not apply to public figures, in whose behaviour citizens may reasonably be expected to have an interest. (*See Interpretation of Terms for meaning of "public figure".*)

ix. People who are in a state of distress should not be placed under pressure to take part in a programme to provide interviews unless it is warranted.

x. Broadcasters shall take care not to broadcast the identity of a person who has died or of victims of accidents or violent crimes unless it is clear that the next of kin has been informed of the event, unless it is warranted.

xi. Broadcasters shall as far as possible, seek to reduce the potential distress to victims and relatives when making or broadcasting programmes intended to examine past events that involve trauma to individuals unless it is warranted to do otherwise. This applies to dramatic reconstructions and factual dramas as well as factual programmes.

9 Right of Reply Objective: To ensure members of the public are able to correct inaccuracies or misleading information broadcast in relation to them or organisations to which they are affiliated.

9.1 Any natural or legal person, about whom incorrect information has been broadcast or whose legitimate interests, in particular his reputation and good name, have been affected by an assertion of incorrect facts in a television or radio programme shall be given an adequate right of reply by the broadcaster, or as determined by the Authority.

9.2 An affected person claiming a right of reply under Rule 9.1 shall make a request in writing to the broadcaster who must, in writing, grant or deny it forthwith and in any event no more than 48 hours of the request being made. If rejected, reasons must be provided to the complainant in written form. The complainant may then make a complaint to the Authority in relation to the broadcast.

9.3 An application for exercise of the right of reply may only be rejected if such a reply is not justified according to the conditions laid down in Rule 9.1, or if to accept it would be likely to involve a punishable act or result in civil or criminal liability to the broadcaster.

10 Information and Warnings Objective: To ensure that viewers and listeners are given information and warnings about programming that contains any material that is capable of causing offence.

10.1 Broadcasters shall warn or advise viewers in advance and throughout the programme when broadcasting material which contain scenes of extraordinary violence, or which include graphic reporting on sensitive subject matters. Similarly, warnings and advice should be given when radio or television programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material which is likely to cause offence. Such material may not be broadcast on television before the watershed or on the radio when children are likely to be listening.

11 Advertising and sponsorship Objective: To ensure that programming content and advertising are kept distinct so that members of the public are not confused; to ensure that advertising pressures do not compromise the integrity of information provided by the broadcaster; to prevent misleading information being given to the public; and to ensure that advertising does not cause unnecessary harm or offence.

11.1 Broadcasters shall ensure that advertising material within a programme is clearly distinguishable from the programme content.

11.2 The fact that a programme is sponsored shall be clearly indicated by the broadcaster.

11.3 Broadcasters shall ensure that there is no influence by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs, which must be accurate, balanced, and objective.

11.4 Any advertisement which offers health cures must include a disclaimer if such cures are not based on scientific data. (*See Interpretation of Terms for meaning of "scientific data".*) If such advertisements are aired, the broadcaster shall include a dis-

claimer stating that the product, remedy or process has not been proven by scientific research to be effective. Broadcasters who do not include such a disclaimer must have readily available in the event of a query from a member of the public or from the Authority, the sources to confirm any such claim.

11.5 Any advertisement which purports to offer educational courses must include a statement stating whether the courses have been duly accredited or not and whether the institution has been recognised or registered by the relevant authorities.

11.6 There shall be no advertising of alcohol and tobacco before the watershed or during children's programmes.

11.7 Broadcasters shall take all reasonable steps to avoid broadcasting advertisements that contain statements or claims that are false or misleading.

11.8 Broadcasters shall take all reasonable steps to avoid broadcasting any advertising material or programme that makes use of any subliminal technique or device.

11.9 The Rules which apply to programming shall apply to all advertisements and sponsorships.

12 Religion Objective: To ensure that programmes do not involve any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination; and that there is no exploitation of any susceptibilities of the audience for such programmes.

12.1 Broadcasters must exercise reasonable judgment in the selection and treatment of religious programmes so as to avoid abusive treatment and exploitation of the views and beliefs. (*See Interpretation of Terms for meaning of "religious programme".*)

12.2 The religious views and beliefs of those persons belonging to a particular religion or religious denomination, or persons who follow no religious doctrine must not be subject to abusive treatment by broadcasters. (*See Interpretation of Terms for meaning of "abusive treatment".*)

12.3 Broadcasters shall ensure that religious programmes are not used to attack another religion. However, if a religious programme includes reasonable criticism of another religion, an opportunity must be given for a right of reply in the same time slot allotted for that programme. (*See Clause 9: Right of Reply.*)

12.4 Where a religion or religious denomination is the subject or one of the subjects of a religious programme, then the identity of the religion and/or denomination under discussion must be made clear to the audience.

12.5 Religious programmes must not seek to promote religious views or beliefs by stealth by concealing the religious views of the makers, sponsors or hosts of the programme or by presenting as support for specific religious beliefs certain facts, theories, or opinions as though such opinions are purely disinterested, scientific, or representative of a consensus.

12.6 Religious programmes must not improperly exploit any susceptibilities of the audience.

12.7 Religious programmes that contain claims that a living person or group has special powers or abilities, must treat such claims with due objectivity and must not broadcast such claims when outside the watershed (in the case of television), or when children are likely to be listening (in the case of radio).

D. COMPLIANCE AND ENFORCEMENT

1. General

1.1 The power of the Authority to implement and enforce the Code is derived from the Act, particularly Sections 3, 18 and 23.

1.2 The Authority will, in discharging this responsibility, consider and investigate complaints regarding broadcasting content, and will also implement its own monitoring systems to identify instances of non-compliance with the Code.

1.3 Pursuant to the provisions of Section 23 of the Act, each concession for the provision of a broadcasting service contains a requirement that the concessionaire must adhere to the Broadcasting Code promulgated pursuant to the Act. The failure by a concessionaire to comply with the provisions of the Code may therefore be a material breach of the terms and conditions of a concession which:

- i. is an offence pursuant to Section 65 of the Act, punishable on summary conviction by a fine of \$250,000 and imprisonment for up to five years; and,
- ii. is grounds for the termination or suspension of the concession by the Minister, acting on the recommendation of the Authority.

1.4 The Authority also has, pursuant to Section 18(1)(h) of the Act, the responsibility to implement and enforce the provisions of the Act and the policies and regulations made under the Act, which includes the Code. The concessions granted to provide broadcasting services also require that concessionaires comply with the lawful directions of the Authority. The Code therefore includes the power for the Authority to give directions to concessionaires to compel compliance with the Code. Failure to comply with a lawful direction of the Authority will in all cases be treated as a material and serious breach of the broadcaster's concession.

1.5 In order to enable the Authority to properly and effectively enforce the provisions of the Code, a graduated system of sanctions will be applied, depending on the frequency and seriousness of the breach.

2. Complaints about Broadcasting Content

Making a Complaint

2.1 Any person may make a complaint to the Authority as to broadcasting content. Such complaint must be made in accordance with the Authority's Broadcasting Content Complaints Handling Procedures.

Anonymous Complaints

2.2 A person making a complaint is not required to provide their name or address save in cases where the complaint relates to a personal or private right provided under the Code (see Clause 9) however, where the complainant provides his name and contact details, the Authority shall acknowledge receipt within 14 days of the receipt of the complaint.



Right of Reply

2.3 Where the complaint is in relation to the failure by the broadcaster to give a Right of Reply in an appropriate circumstance as set out in Clause 9, the Executive Director shall, without prejudice to the Authority's consideration of the complaint and determination of any breach of the code, where he considers that a Right of Reply should properly have been given by the broadcaster, direct that the broadcaster give the complainant a Right of Reply at such time and in such manner as he may reasonably determine.

3. Monitoring and Investigation by the Authority

3.1 The Authority may implement a system of monitoring content broadcast in order to determine compliance by broadcasters, independently of the receipt and handling of complaints.

4. Consideration of Possible Breaches

4.1 The Authority shall, where it receives a complaint or discovers through its monitoring activities any possible or alleged breach of the Code, consider and determine through the process set out in the Authority's Broadcasting Content Complaints Handling Procedures.

5. Sanctions for Breach of the Code

5.1 Sanctions for breach of the Code will be administered according to a tiered system. The intent is to ensure that broadcasters receive fair warning of breaches of the Code and thereby: enable them to implement proper compliance measures before being subjected to the more punitive sanctions; and ensure that the sanction applied in any

instance is fair and proportionate to the breach. The penalties are graded according to the number of offences taking place within the previous 12-month period, on a rising punitive scale as set out below. Every breach of the Code by a broadcaster within the relevant period will be considered in determining the appropriate sanctions.

5.2 The following system of graduated sanctions will be applied for breaches of the Code:

1st Breach: 1st Warning

The Authority will notify the broadcaster in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a 1st Warning.

2nd Breach: 2nd Warning

The Authority will notify the broadcaster in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a 2nd Warning. The Authority shall also publish the notice on its website.

3rd Breach: Public Sanction

1. The Authority shall notify the broadcaster in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a public sanction;

2. The Authority shall publish the notification on its website; and,

3. The broadcaster shall be directed by the Authority to broadcast a notice of the Authority decision, in the form directed by the Authority, at such intervals (not exceeding a one-minute notice, broadcast once every three hours for a period of 24 hours) as the Authority shall direct.

Where the above sanctions are applied in respect of a breach which has occurred in the same programme as two or more of the previous breaches, the Authority may direct the broadcaster to

take such steps as the Authority reasonably considers necessary to minimise the likelihood of future breaches occurring. The concessionaire shall be given a reasonable period of time to implement such changes, and shall suspend its broadcast of the offending programme until such time as the concessionaire has implemented the necessary steps to the reasonable satisfaction of the Authority.

4th Breach: First Suspension

The Authority shall, under Section 30(1) of the Act, recommend to the Minister the suspension of the concession for a period of up to two weeks.

The Authority shall publish on its website and in no less than one daily newspaper with circulation in Trinidad and Tobago, a notice containing details of the breach and the sanctions applied.

5th Breach: Second Suspension

The Authority shall, under Section 30(1) of the Act, recommend to the Minister the suspension of the concession for a period of up to six weeks, having regard to the seriousness of the breach.

In addition to the above, the Authority may also, where it considers it appropriate, having regard to the nature and seriousness of the breach, commence proceedings against the concessionaire for the committing of an offence under Section 65 of the Act, or any other applicable provision.

The Authority shall publish on its website and in no less than one daily newspaper with circulation in Trinidad and Tobago, a notice containing details of the breach and the sanctions applied.

6th Breach: Termination

The Authority shall recommend to the Minister the Termination of the concession in accordance with Section 30(1) of the Act.

The Authority shall commence proceedings against the concessionaire for the commission of an offence under Section 65 of the Act, or any other applicable provision.

5.3 For the purpose of determining the applicable level of sanctions under 4.7 above for a particular breach, the Authority will consider all breaches that have occurred within the 12-month period ending with the date on which the breach under consideration was committed.

5.4 Where a concessionaire commits a breach of Rule 3.6, the Authority shall treat a first such breach as a fourth breach for the purposes of 5.2 above.

5.5 The Authority may, where it considers it necessary in the public interest to do so, treat particularly serious breaches at a higher level than set out under 5.2 above. Where the Authority exercises its discretion under this provision, it shall give its reasons for so doing in writing to the affected broadcaster.

5.6 Where having considered the relevant breaches under 5.2 above, the Authority considers that the sanction provided by 5.2 for a particular breach is unduly severe having regard to all the circumstances of the breach, it may apply such lesser sanction as it considers appropriate.

4. THE DRAFT GUIDELINES ON THE BROADCASTING CODE

A. USE OF THE GUIDELINES

The Guidelines are intended to assist the Broadcaster in interpreting and applying the Broadcasting Code. The Rules, contained in Part C of the Code are to be read together with the Guidelines and in the context of the entire Code including the headings, objectives and relevant laws of Trinidad and Tobago.

Reference in the Guidelines to a Clause is a reference to the relevant Clause in Part C of the Code and reference to a Rule is a reference to the relevant Rule in Part C of the Code.

Broadcasters are reminded of the legislative background that has informed the Rules, of the Objectives that apply to each clause and the definition of certain terms which may be relevant in interpreting and applying the Code. No Rule should be read in isolation but

within the context of the whole Code including the headings, cross references and these Guidelines.

Every complaint or case will be determined on its merits, according to the individual facts of each case or complaint.

Broadcasters are required to ensure that all the material they transmit complies with the Code and that they have adequate systems and procedures in place to ensure compliance.

B. GUIDELINES

1 Guidelines to Clause 1: Protecting Children and Young Persons

The Rules in Clause 2: Harm and Offence are also intended to protect children and young persons and therefore Clauses 1 and 2 should be read together.

Recognising that programmes designed specifically for children reach impressionable minds, broadcasters shall select material aimed at children with due care. This does not mean that the vigour and vitality common to children's imagination and love of adventure should be removed, but programmes should be based upon sound social concepts.



Guidelines to Rule 1.1

Material unsuitable for children and young persons

The Code provides for the protection of children from unsuitable material. Material that may be considered unsuitable for children falls under several headings:

- Offensive language
- Violence
- Sexual portrayal and the graphic reporting of sensitive subject matter such as sexual assault or court action related to sexual crimes.
- The portrayal of dangerous behaviour, including the use of drugs, solvents, alcohol and smoking.

The list is not exhaustive and unsuitable material must be judged not only by the topic or theme but by the way in which the material is treated in the programme or the particular context. The intention is to protect children from material that may harm them physically, psychologically or morally.

Providing information on programming allows parents to make informed choices about the suitability of material in programmes before they are aired. Broadcasters are required to protect children and young persons from exposure to unsuitable material by the use of advisories and warnings as well as appropriate scheduling. The Rules in Clause 10 relating to Information and Warnings must therefore be read in conjunction with the Rules in Clause 1.

Guideline to Rule 1.2

The "watershed" is the period during which material that is unsuitable for children cannot be shown. The watershed period commences at 9:00 p.m. and ends at 5:30 a.m. Material unsuitable for children must not be shown outside the watershed period.

It is important for broadcasters to understand that compliance with the watershed does not mean that very adult programming should start immediately after the watershed but that there should be a gradual transition towards very adult material late at nights.

Rule 1.2 also applies to the content of pre-watershed trailers which must be appropriate for the time of broadcast.

Guidelines to Rule 1.3

The watershed applies to television only and it may be impractical to impose a watershed to radio programming, as listening patterns do not necessarily follow the same trends as television viewing.

However, radio broadcasters also have a responsibility to ensure that children are not exposed to unsuitable material at times when they are likely to be listening.

In selecting material, radio broadcasters must be guided by the Rules relating to material that is unsuitable for children, and must not broadcast such material at times when children are likely to be listening. The times when children are likely to be listening include at a minimum drive time in the mornings between 5:30 a.m. and 8:30 a.m. and in the evenings between 3:30 p.m. and 7:00 p.m. During school vacation periods the times when children are likely to be listening extends to between 8:30 a.m. and 7:00 p.m. at a minimum.

Guidelines to Rules 1.4 - 1.6

The way offensive language is addressed under the Code depends on a number of factors including the frequency of use and the context. Use of the most offensive language, such as all variations of the "F-word" or the "C-word", or obscene language or even milder forms (when used frequently) is prohibited before the watershed or when children are likely to be listening. The broadcasting of less offensive terms before the watershed is justified only where it is essential to the audience's understanding or to the dramatic development of character or story-line. In any event, offensive language should never be used in programmes made specifically for young children.

Guidelines to Rules 1.7 - 1.9

The relevant guiding principle with respect to violence in programming are that gratuitous violence, whether in fictional or in factual programmes, unless it is central to the development of character or plot, should not be broadcast and that the depiction of violence in children's programming should not be so realistic as to threaten young children, invite imitation or trivialise effects of violent acts.

Great sensitivity should also be exercised by broadcasters when dealing with themes which could threaten a child's sense of security, such as in the portrayal of domestic conflict, the death of parents or close relatives, or the death or injury of their pets, street crime, or the use of drugs.

Guidelines to Rule 1.10

Programming with themes that could invite children to imitate dangerous acts that they see on screen, such as the use of matches, use of household products which could be dangerous if mishandled, should be treated in a responsible manner. Similarly, the use of dangerous substances should not be encouraged, although this does not prevent these themes being handled in an educational or moral way.

Guidelines to Rules 1.11 through 1.14

It is unacceptable to portray children in a sexual fashion. Exceptions may be made in the case of programmes with a serious educational purpose. Any discussion or portrayal of sexual behaviour must be editorially justified if included before the watershed or in the case of radio, when children are likely to be listening.

Themes such as child abuse or incest should be treated with utmost sensitivity and suitable warnings should be provided prior to airing.

Programming with sexually explicit material must not be telecast before the watershed. Any pre-watershed portrayal of sexual behaviour or discussion of sexual behaviour is not acceptable unless in the case of the more explicit material on television, there is a serious educational purpose. In the case of any discussion on

or portrayal of less explicit behaviour, this must be justified by the context and the broadcaster must use his editorial judgement.

Guidelines to Rule 1.16

Consent is required where a person under 18 is a significant participant in a programme; it is not required where a person just happens to be in the background and is not an individual contributor.

Broadcasters should have regard to the particular susceptibilities of children, especially younger children and should not put them into positions where they will deliberately be upset. Broadcasters should exercise responsible judgement as adults even where the child's parent or guardian is apparently willing to place their child in a dangerous or uncomfortable position.

Guidelines to Rules 1.18 - 1.19

Broadcasters are reminded that the statutory provisions which prohibit the identification of victims of sexual offences or juvenile offenders also apply to them.

2

Guidelines to Clause 2: Harm and Offence

Clause 2 must be read in conjunction with Clause 1 as the Rules are designed to provide protection for adults as well as for children and young persons, from harmful and or offensive material. Clause 2 must also be read in conjunction with Clause 4 on Race and Clause 12 on Religion.

Clause 2 deals with potential and actual harm and/or offence. The broadcasters have a responsibility to take steps to ensure that in providing their services, the audience is provided with adequate protection from material that has the potential to be harmful or offensive. There are no objective standards of what is offensive and the criteria provided in the definition of "context" provides some guidance on what this may involve.

In Clause 2, harm and offence refers to psychological harm and offence which may be the result of material or comment that is gratuitously abusive or unduly discriminatory based on race and the matters referred to in Rule 2.1.

It may be also caused by the display of images of physical harm or cruelty being done to animals when children are likely to be viewing.

Guidelines to Rule 2.1

It is the duty of broadcasters to avoid the broadcast of any abusive or unduly discriminatory material or comment in relation to matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental disability.

In the context of the Code, abusive or unduly discriminatory material and comment refers to statements and material which treat an issue or individual with the intention of causing injury or giving offence.

Statements that can be interpreted as abusive or discriminatory are allowed on the following grounds:

- a) they either form part of a sociological, psychological, or political analysis - i.e. are not mere opinion uninformed by sound social concepts; (*See Definitions for meaning of "sound social concepts"*);
- b) they can be justified on the grounds of public interest in receiving reliable information; or
- c) in the case of satire, they seek to reveal the contradictions or hidden agendas of a particular belief system or an individual.

It is important to note that Rule 2.1 does not prohibit mere reference, where pertinent to matters of race, nationality, ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental disability. What are prohibited are those references which contain language that is abusive or unduly discriminatory.

Guidelines to Rule 2.2

It is important for broadcasters to remember that they remain responsible for compliance with the Code at all times. The fact that programming is 'live' and involves third parties does not absolve them from this responsibility. Inevitably, there are times when third parties will do or say things which breach the Code and talk shows are a prime example. Whilst the broadcaster cannot always stop a breach occurring, they can take steps to prevent them, and to apologise if they happen. For example, guests on programmes can be briefed in advance about what is and is not acceptable. A Delay Facility and "dump button" can be used to prevent unacceptable material being broadcast. If a caller starts to become abusive, they can be warned that they will be cut-off if they continue, and the call terminated if they carry on. When something offensive has been said or done, the broadcaster can mitigate the offence caused by apologising as soon as possible.

Guidelines to Rule 2.3

Any reference in humorous or satirical programming to race, national or ethnic origin or any of the matters referred to in Rule 2.1, must be such that the humorous or satirical content is obvious to any reasonable person. A reasonable person is one who does not have highly biased opinions that are unsubstantiated by evidence.

Guidelines to Rule 2.4

Broadcasters must not broadcast material that directly or indirectly condones dangerous or seriously anti-social behaviour and that is likely to encourage others to copy such behaviour. Broadcasters can use their judgement to intervene or put alternative viewpoints, should a guest or caller say something which apparently condones such behaviour, for example criminal behaviour, inappropriate sexual behaviour, or drug use.

Guidelines to Rule 2.5

Where there is good editorial reason for including disturbing material, broadcasters must warn their audiences before the material is broadcast.

Guidelines to Rule 2.6

Material which displays cruelty to animals should be avoided by broadcasters unless it is contained in news items, documentaries or dramatic presentations.

Guidelines to Rules 2.7 - 2.9

Broadcasters must exercise caution and objectivity in the demonstration of exorcism, the occult, the paranormal, divination or related practices where the portrayal is factual rather than for entertainment purposes. Where it is intended for entertainment purposes, this intention must be made clear to viewers and listeners.

In either case, these demonstrations must not contain advice that is considered as "life-changing".

Guidelines to Rule 2.10

While they may be acceptable themes for programming, caution should be exercised to avoid giving viewers and listeners, information about how to commit sui-

cide and self-harm in order to avoid imitation.

Guidelines to Rule 2.11

Competitions are greatly enjoyed by viewers and listeners, but they should be carried out fairly. This will include making the rules clear and directing the audience to the rules if they are too complicated to be explained fully on-air (for example, by publishing them, perhaps on the broadcaster's website). It is important not to deceive audiences over competitions; prizes should be accurately described, and winners chosen fairly and objectively.

3 Guidelines to Clause 3: Crime

(Clause 3 is to be read together with Clause 5 on News and Public Affairs. Guidelines to Rule 3.1)

Broadcasters have a responsibility to avoid the broadcast of material that is likely to encourage the commission of crime or that may lead to disorder.

A "crime" is an offence under the common law or statute law of Trinidad and Tobago that is punishable by a fine or a term of imprisonment.

"Disorder" refers to acts that may lead to or provoke the commission of crime.

Guideline to Rule 3.2

The description or demonstration of criminal techniques which contain details that could enable the committing of crime must not be broadcast unless editorially justified.

Guidelines to Rule 3.3 - 3.4

Broadcasters have a responsibility to avoid placing in jeopardy, the lives of persons or attempts by authorities, to deal with the crime of abduction or kidnapping or the general detection and prevention of crime.

Guidelines to Rule 3.5

The purpose of this Rule is to prevent the airing of misleading statements or comments in relation to crime statistics

4 Guidelines to Clause 4: Race

The principle underlying this Clause is that the only biological basis of race lies in genetic groupings based on markers which do not reflect phenotypical or behavioural traits. It is on this basis that broadcasters are to exercise responsibility when treating with issues of race.

(See Definitions for meaning of "racial groups".)

Broadcasters are encouraged to use the Delay Facility especially in relation to talk-shows or during live call-in programmes to minimise the broadcast of statements or comments that offend against the Rules of the Code. The Authority is likely to view breaches committed as a result of broadcasters opting not to use the Delay Facility, as more serious than breaches committed by broadcasters who have properly implemented the Delay Facility.

In their station programming, broadcasters should apply policies that oppose and attempt to break down prejudice on the basis of ethnicity, race, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief

or political affiliation. The last two criteria shall not apply to talk shows or specific (non-series) features where the presenters may reasonably be expected to take partisan positions.

Guidelines to Rule 4.1

The terms "Afro-Trinidadian" and "Indo-Trinidadian" are acceptable to refer to the country's two major racial groupings, as are the terms "Indian" and "African" or any other terms which are considered neutral adjectives.

Guidelines to Rule 4.3

Broadcasters should seek to achieve an appropriate balance when broadcasting programmes dealing with race by allowing representatives of the particular racial groupings to be heard.

5 Guidelines to Clause 5: News and Public Affairs

Guidelines to Rule 5.1

For stations which have news content, or which air news features or current affairs programmes, the full, fair and proper presentation of news, opinion, comment, and editorial is the prime and fundamental responsibility of broadcasters.

Broadcasters must ensure that the right of the citizen to be informed freely, truthfully and objectively on matters of public interest is safeguarded and that the news are presented with due accuracy and impartiality. News in whatever form will include news bulletins, news flashes and daily news magazine programmes.

If audiences are to trust broadcasters as a reliable trustworthy source of information, it is important that news is presented as accurately as possible. This does not mean that the occasional mistake will be punished, but broadcasters should ensure that arrangements are made for ensuring the due accuracy and impartiality of their news reporting.

Guidelines to Rule 5.3

Broadcasters should make a clear distinction between news analysis and opinion and regular news.

Programmes geared towards a narrow audience such as political or religious programmes and editorial opinion should be clearly labelled as such and editorial opinion should be kept distinct from regular news presentations.

Guidelines to Rules 5.4 - 5.5

While broadcasters are entitled to editorial opinion, they have a responsibility to observe due impartiality in all matters of a controversial nature. In that regard, they must base their news, news background, news analysis and opinion on the most reliable scientific data.

Guidelines to Rule 5.7

The exceptions to the requirement of objectivity and balance are political or special interest opinion or programmes geared towards a narrow audience, provided they are labelled as such.

Guidelines to Rule 5.8

In ensuring that news is presented with due impartiality, it is important that broadcasters avoid the use of currently-active politicians as presenters on news programmes. Generally, the term "politician" includes a minister of government, a member of parliament, alderman, mayor, councillor, an executive member of a registered political party, a candidate or prospective candidate for any national or local election.

Guidelines to Rule 5.9

Broadcasters are expected to exercise a degree of responsibility and sensitivity in reporting the names of victims of crime, accidents or tragedy. Broadcasters are also reminded of their obligation to

comply with the laws relating to identification of criminal offenders who are juveniles and victims of sexual offences.

6 Guidelines to Clause 6: Elections

Clause 6 applies to the coverage of elections during the period of elections. There is no onus on broadcasters to do election coverage but those who elect to do so must comply with Clause 6.

The Rules in Clause 5, in particular those relating to matters of major political or industrial controversy and major matters relating to current public policy apply to the coverage of elections.

Guidelines to Rule 6.1

Broadcasters should aim to reflect the diversity of political opinion in society and the coverage of the positions and views of political parties should broadly reflect their representation in society.

"Elections" refer to an election of a member or members to serve in the House of Representatives, a Municipal Council or the Tobago House of Assembly



in accordance with the Representation of the People Act Ch 2:01.

"Reasonable opportunity" means that a candidate must be offered the opportunity to take part in electoral discussion and reports. If a candidate refuses or is unable to participate, the item may nevertheless go ahead. A broadcaster shall use his editorial judgement in determining the amount of air time to be allocated to each candidate or party having regard to the number of constituencies being contested by that particular party and any other circumstances as determined by the Authority.

Guidelines to Rule 6.2

Broadcasts of political discussion or debates involving partisan speakers or on behalf of political parties should clearly be labelled as such, identifying the particular political affiliations of the speakers.

Guidelines to Rule 6.3

Balance in elections coverage should be demonstrated by broadcasters in the way that they treat with allegations made by a political party or its officials about members of another political party.

The broadcaster shall attempt to substantiate such allegations and if this is not possible at the moment or over a reasonable time frame, the broadcaster shall make it clear that such allegations are unsubstantiated.

Guidelines to Rule 6.4

Broadcasters must avoid the use of race, ethnicity and/or religious beliefs as a basis for denigration of a person's political affiliation.

Guidelines to Rule 6.5

At all times, broadcasters should be balanced in their coverage of the various views and opinions particularly during election time and when the management of a broadcasting organisation takes a decision to support a political party during an election campaign, this decision should be made known to the audience before any editorial comment.

Guidelines to Rule 6.6

Broadcasters must identify political

advertisements and political broadcasts as such, at the beginning and end of the broadcast.

7 Guidelines to Clause 7: Fairness

Guidelines to Rule 7.1

The aim of Clause 7 is to ensure that where persons consent to making a contribution to a programme, whether expressly or by implication, they do so after disclosure to them of the relevant details about the nature and purpose of the programme and any future use of the material. Any exception to Rule 7.1 must be justified in the public interest.

Reference to "contribute" can include an interview, live or recorded or a report of a written or oral statement or comments.

The responsibility of fairness to contributors and potential contributors will normally require that broadcasters adopt the following practices where a person is invited to make a contribution to a programme:

1. Except when the subject matter is trivial or their participation minor, they should normally, at an appropriate stage:
 - (i) be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute and when (if known) and where it is likely to be first broadcast;
 - (ii) be told what kind of contribution they are expected to make, for example, live, pre-recorded, interview, discussion, edited, unedited, etc;
 - (iii) be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
 - (iv) be made aware of any significant changes to the programme as it develops, which might reasonably affect their original consent to participate, and which might cause material unfairness;
 - (v) be told the nature of their contractual rights and obligations and those of the programme maker and broadcaster in relation to their contribution; and
 - (vi) be given clear information, if offered an opportunity to preview the programme, about whether they will be able to effect any changes to it.

Taking these measures is likely to result in the consent that is given; being 'informed consent' (referred to in Clause 7 and the rest of the Code as "consent").

It may be fair to withhold all or some of this information where it is justified in the public interest or under other provisions of Clause 7.

2. Broadcasters should ensure that the reuse of material, i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create unfairness. This applies both to material obtained from others and the broadcaster's own material.

3. Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that:

(i) material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and

(ii) anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute.

4. Programmes, such as dramas and factually-based dramas should not portray facts,

events, individuals or organisations in a way that is unfair to an individual or organisation. (See *Interpretation of terms for meaning of "fairness"*.)

Guidelines to Practice 7(ii)

The requirement of informed consent is considered even more important when dealing with young persons (under the age of 18) and persons over 18 who do not have the capacity to give consent either because of mental disability or emotional distress and trauma. In the case of persons under 18, consent may be given on their behalf by a parent, guardian or a person in *loco parentis* who must be over 18 years old. In the case of the latter, consent may be given by a person with primary responsibility for their care.

In any event, persons not in a position to give consent should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent.

Guidelines to Practices 7(iii-iv)

Fairness should also be practiced in honouring guarantees to contributors with respect to content of a programme, anonymity or confidentiality and in allowing the right to reply to persons against whom allegations of wrongdoing or incompetence or other significant allegation has been made in a programme. (Please see *Clause 9 on the Right to Reply*.)

Guidelines to Practice 7(v)

Anyone has the right to refuse to make a comment or participate in a programme but the refusal of an individual or organisation to take part, need not normally prevent the programme from going ahead. The broadcaster must however exercise fairness in indicating clearly that the person has chosen not to appear and to give the explanation offered by that person, if it would be unfair not to do so.

Guidelines to Practice 7(vi)

The views of a person or organisation that is not participating in a programme must be presented in a fair manner.

8 Guidelines to Clause 8: Privacy

Guidelines to Rule 8.1

Infringement of privacy against an individual or organization in a programme or in connection with the obtaining of material included in a programme must be warranted or done with the consent of the individual or organization given prior to the programme or material being broadcast.

This means that an infringement of privacy is warranted if broadcasters are able to demonstrate that in the particular circumstances of the case, it is in the public interest and that the public interest outweighs the right to privacy. (See the *Interpretation of terms for definition of "public interest"*.)

Guidelines to Practices 8(iii)-8(iv)

Privacy is least likely to be infringed in a public place and property that is privately owned can be a public place if readily accessible to the public.

Some activities and conditions may be of such a private nature that filming even in a public place, could involve an infringement of privacy. Examples would include a child in a state of undress, someone with a disfiguring medical condition or the footage of a suicide attempt.

Guidelines to Practice 8(v)

Consent may be implied where persons have called in to a call-in programme.

Guidelines to Practices 8(ix)-(xi)

Broadcasters should exercise extra sensitivity and care when dealing with persons who are in a state of distress or in broadcasting any programme that is intended to revisit past events involving trauma.



9 Guidelines to Clause 9: Right Of Reply

Guidelines to Rule 9.2

The exercise of an effective reply must be transmitted within a reasonable time subsequent to the request being substantiated and at a time and in a manner appropriate to the broadcast to which the request refers. Forty-eight hours is the outer limit for responding to a request.

In the event that a broadcaster refuses a request for a right of reply, this decision shall be provided in writing together with reasons for its refusal.

The aggrieved person or organisation may then lodge a complaint to the Authority in accordance with the Authority's procedures, and the Authority will investigate the complainant's claim to a right to reply having regard to the statements made in the broadcast and decide on an appropriate remedy.

If the Authority considers that the claim brought by the aggrieved person can be substantiated, it may order the broadcaster to give an appropriate right of reply within a reasonable period and at a reasonable place within the broadcast schedule. The Authority may take action as it considers appropriate, including requiring that the broadcaster broadcast a statement of correction.



10 Guidelines to Clause 10: Information and Warnings

Guidelines to Rule 10.1

Warnings and advisories should be broadcast before every programme where required by the Rules and at suitable intervals during the programme itself. Suggested frequencies are as follows:

- (a) at the beginning of, and after every commercial break during the first hour of programming broadcast late at night; or
- (b) at the beginning of, and after every commercial break during programming broadcast at any other time which contains such material which is not suitable for children.

To assist consumers in making their viewing choices, broadcasters shall provide suitable viewer advisories that will provide viewers with the most relevant and useful information regarding the programming to which it applies:

Suggested wordings for advisories and warnings are as follows:

"The following programme contains scenes of coarse language and is not suitable for younger children."

"The following programme contains

sexually explicit material intended for adult audiences. Viewer discretion is advised."

"The following programme contains sexually explicit material. Viewer discretion is advised."

"The following programme contains scenes of violence, coarse language and nudity intended for adult audiences. Viewer discretion is advised."

"The following programme deals with mature subject matter and is intended for adult audiences. Viewer discretion is advised."

"The following programme deals with mature subject matter and contains scenes of nudity and coarse language. Viewer discretion is advised."

The language employed must reflect the seriousness of the warnings as appropriate based on the content of the particular programme.

Broadcasters may also make use of appropriate on-screen ratings or labelling to indicate the rating or classification of programmes. This is done by displaying an appropriate symbol or icon for the duration of the programme to which the rating applies.

11 Guidelines to Clause 11: Advertising

These Guidelines are intended to assist the Broadcaster in interpreting and applying the Broadcasting Code. The Rules of the Code are to be read together with these Guidelines and in the context of the entire Code including the headings, objectives and relevant laws of Trinidad and Tobago.

Broadcasters shall have regard to the legislative background to the Code and are reminded that broadcast advertising must comply with all other relevant laws.

Guidelines to Rules 11.1 and 11.3

At all times, broadcasters should ensure that advertisers do not influence or be perceived to be influencing the reporting of news or public affairs and that they retain editorial control at all times.

Broadcasters are therefore required to make a clear separation between formal advertising and programming so that viewers and listeners are able to identify when they are being advertised to. Commercial messages within a newscast should therefore not be read by the newsreader. If this is not possible for some reason, commercial segments should be clearly indicated, e.g. by the newsreader saying at the start, "We now pause for some commercial messages", and at the end, "That was a commercial message."

Guidelines to Rule 11.2

Sponsored programmes must be clearly identified by the name and/or logo of the sponsor at the beginning and/or end of the programmes. Sponsorship must comply with advertising scheduling rules, so that, for example, alcohol companies must not sponsor children's programmes.

Guidelines to Rule 11.4

Advertising should be truthful and not misleading and particular attention must be paid to the provisions of the Food and Drugs Act relating to the advertisement of health cures and with which broadcasters are required to comply.

It is the responsibility of the broadcaster to ascertain whether these claims are based on scientific data and where they are not, the advertisement must include a disclaimer in accordance with Rule 11.4.

Broadcasters have a general responsibility to ensure that advertisements do not contain statements that are false or mis-

leading and should as far as possible seek verification or substantiation of claims about advertised products or services from advertisers or advertising agencies. With respect to the advertisement of health cures and educational courses/programmes, the broadcaster has particular obligations concerning substantiation of claims and accreditation.

Guidelines to Rule 11.6

Broadcasters shall refer to Clause 1.1: Protection of Minors which also relates to advertising to children.

Guidelines to Rule 11.7

In scheduling advertisements during children's programmes, broadcasters must pay particular attention to the timing and frequency of advertisements promoting the same product.

Guidelines to Rule 11.8

Advertisements that make use of any subliminal technique or device are not allowed.

Guidelines to Rule 11.9

The general rules in this Code also apply to advertising and sponsorship.

12 Guidelines to Clause 12: Religion

Guidelines to Rule 12.1

Religious programmes include programmes that contain devotional material, acts of worship, religious rituals as well as current affairs or history programmes where religion or belief is a significant part of the programme.

In a multi-religious society, broadcasters must have regard to the special place that religion is likely to hold in the lives of adherents of all faiths. Given the pervasive nature of broadcasting media and the likelihood that religious programmes reach persons of various religious persuasions at the same time, broadcasters must exercise sensitivity and balance in the treatment of all religious programming.

Guidelines to Rule 12.2

"Abusive treatment" refers to the treatment of an issue or individual with the deliberate intention of causing injury or giving offence. It does not mean that injury or offence may not be given, but that there must be a justification, which may include public interest; giving the audience reliable information; or, in the case of satire, seeking to reveal the contradictions or hidden agendas of a particular belief system or an individual.

The use of derogatory terms and labels in referring to individuals and groups belonging to religious groupings in the society must therefore be avoided.

Guidelines to Rule 12.4

A religious programme must be identified as such and where a particular religion or religious denomination is the subject of a religious programme, the identity of that religion or denomination must be made clear to the audience.

Guidelines to Rule 12.5

The promotion of religious views or beliefs by stealth is not allowed.

Guidelines to Rule 12.6

Religious programmes must not proselytize, or attempt to influence the audience, by preying on their fears and susceptibilities.

Guidelines to Rule 12.7

Religious programmes must not make claims with respect to powers of any living person or group that cannot be substantiated, particularly when significant numbers of children are expected to be watching or are likely to be listening, as in the case of radio.