



ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

MEDIA REGULATION IN THE UNITED KINGDOM

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Introduction

Media content regulation in the UK revolves primarily around codes of practice, drawn up by a variety of bodies which are either entirely or largely independent, following wide public consultation. In some cases, these codes of practice have been developed by bodies with statutory powers over the media while in others the responsible bodies have been established by the media or journalists themselves. It is the purpose of this paper to describe the various codes of practice which are applied to the media, as well as the systems for promoting adherence to these codes.

In addition to the codes noted above, the broadcast media are also subject to a small number of specific content rules and all media are subject to laws of general application, such as those relating to defamation, obscenity and hate speech. This paper will not deal in any detail with these topics. This paper will also not deal with the whole question of ethical codes, drawn up by journalists' associations and applicable to individual journalists as a professional matter.

The print media is entirely self-regulating in the United Kingdom and operates free of any specific statutory rules. The profession has established the Press Complaints Commission on its own initiative, and this body has developed a code against which to measure journalistic standards. For the broadcast media, two broadcasting acts set out broad categories of material which should be covered by codes of conduct but leave detailed elaboration of these categories to regulatory bodies. These acts provide for the establishment of various independent regulatory bodies which undertake a variety of roles vis-à-vis broadcasters, including monitoring and applying the codes.

The various codes of conduct in place in the UK¹ generally provide guidelines for media professionals, rather than setting clear prohibitions on specific types of content. They represent an attempt to provide some guidance to the media recognising, however, that the world is almost infinitely complex and that it is simply not possible to provide clear rules about what is and what is not allowed in all situations. A variety of competing interests will generally be in play, including the public's right to know, the practical realities of life in the media, particularly the need to publish in a timely fashion, and various private interests, such as privacy.

The need to balance these competing interests means that the various codes draw heavily on constantly evolving "community standards" and the concept of the "public interest". The guidelines are not laws and, to a significant extent, their proper application depends upon the media maintaining constant awareness of the prevailing public "mood", or community standards as broadly reflected in the codes. This allows them to be flexible and to give the media

¹ There are seven codes governing content standards within the media in the UK, one for the press and six for the broadcast media.

some scope to decide for themselves how to approach necessarily difficult questions.

For these reasons, the codes are almost inherently vague and there is consequently a great deal of scope for varying interpretation and application in practice. This means that regulatory and standard-setting bodies have considerable leeway when measuring the performance of the media against the standards in the codes. This places a heavy onus upon these bodies who must, on the one hand, decide whether to uphold complaints from the public and, on the other, be fair and clear in their dealings with the media.

The Print Media

In the United Kingdom, the print media is essentially self-regulating. There is no statutory Press Council, no statutory complaints body and no requirement that journalists be registered or belong to any particular association. There is, however, a body established by newspaper bodies themselves, the Press Complaints Commission.

During the 1980's there were a number of public complaints about perceived excesses in the British press and the British Government responded by setting up a public enquiry into press regulation which reported in 1990. The enquiry recommended the establishment of a new voluntary body to regulate the press (to replace an existing body widely seen as discredited and ineffective) which would be given a limited time to prove its efficacy. If it were not able to establish high standards of ethical journalism within that time, a statutory Press Council was to be established.

In response to this proposal, and in order to avoid the creation of a statutory council, a committee of editors of various press organs met and set up the Press Complaints Commission in early 1991. A Code of Practice for the press was drawn up by the committee of editors and all British editors and publishers committed themselves to upholding the code. A levy on newspapers and periodicals was established to fund the PCC and it was established that a majority of those on the PCC would be lay people. The main purposes envisaged for the PCC were to set high standards for the practice of press journalism, to disseminate and promote those standards, including through the training of journalists, to receive complaints against press organs and adjudicate on them, and generally to ensure that the highest standards of journalism are upheld by the British press. Membership of the PCC is formally voluntary, although in practice all major newspapers are members.

The PCC began receiving complaints and issuing guidelines on specific matters almost immediately and has continued to do so to the present day. Since it was originally adopted, there have been various revisions in structure and numerous updates to the Code of Practice. These changes are made by the industry's Code of Practice Committee, which consists of senior editors from across the newspaper and magazine publishing industry.

The current Code of Practice contains 16 articles dealing with a wide range of issues, including accuracy, privacy, harassment, intrusion, children, listening devices, discrimination, confidential sources and payment for articles. Seven of these articles are subject to a public interest “override” whereby the stated rule may be overcome or modified where it is in the public interest to do so, taking into account all the circumstances.² The application of the public interest override necessarily leaves a wide scope to the PCC when interpreting the Code.

Anyone can make a complaint to the PCC alleging breach by a newspaper or magazine of the Code. Complaints are free and do not require legal representation. According to the PCC, most complaints are dealt with quickly and are resolved to the satisfaction of the complainants. The complaint procedure is governed by a “complainants charter” against which satisfaction of complainants can be measured. The only ‘sanction’ for breach of the code is a requirement that the offending newspaper publish the findings of the PCC. Even this mild sanction has proved too much for some newspapers and, over the years, a number of newspapers have withdrawn from the PCC in protest against one of its findings. These rebel newspapers have all, in due course, rejoined the PCC.

From 1991 to 1998 the PCC received between 1500 and 3000 complaints each year. The vast majority of these were conciliated in some way without the need for formal arbitration by the PCC. Of those complaints which were formally adjudicated, a significant number were upheld (45 out of 86 in 1998). According to the PCC, in every case where a complaint was upheld in 1998, the press organ concerned published the PCC’s findings in a position of reasonable prominence. The most common complaints in 1998 (the last year for which an annual review is currently available) related to allegations of inaccuracy and a failure to grant a right of reply. Alleged invasions of privacy and inappropriate depiction of children were common and allegations of discrimination and harassment were also significant.³

During the course of 1998 and 1999 the PCC dealt with a number of high profile complaints. These cases involved claims based on the public interest, which was invoked to justify behaviour that would otherwise have breached the Code. They therefore illustrate some of the factors the PCC takes into account when undertaking public interest balancing under the Code of Practice.

One very high profile case involved payments by a newspaper to Louise Woodward,⁴ a British nanny convicted in the USA of killing the baby she was looking after. The Code of Practice forbids payments to witnesses or criminals, subject to a public interest override. The newspaper argued that the payment had allowed new information to be published and was, therefore, in

² The full code is attached in Appendix One. The code, adjudications and other information can be found at the PCC website, <http://www.pcc.org.uk/about/default.htm>.

³ At, www.pcc.org.uk/annual/98/stats.htm.

⁴ See: www.pcc.org.uk/adjud/report44/ac44_9.htm.

the public interest. This was particularly so given the widespread revulsion the trial had caused in Britain and the campaign being run by the newspaper to overturn the conviction. The PCC took four factors particularly into account in finding that the payments were, taking into account all the circumstances, acceptable and that there had been no breach of the code. First, the newspaper had clearly considered the public interest aspect of the case before making the payment. Second, the timing of the payment meant the information published might actually have affected the outcome of the case. Third, the matter was clearly one of high public interest. Fourth, the payment was necessary, given the financial plight of the Woodwards.

In another high profile case, the Prime Minister, Tony Blair, and his wife complained about a story which they claimed was misleading and intruded into the private life of their daughter.⁵ A newspaper had published allegations that the Blairs' daughter had gained a place at a popular local high school through preferential treatment. The newspaper claimed it was legitimate to publish the allegation in the public interest because of the Prime Minister's hypocrisy in making choices for his family which ran contrary to his government's policy. The PCC upheld the complaint on two grounds. First, they held that the allegations were unfounded and that the newspaper had adduced no evidence to prove them. Second, the PCC held that there was no need to specifically identify the daughter although it is rather difficult to imagine how the story might otherwise have been framed.

There would appear to be a high degree of public awareness about the PCC and, despite its lack of legally enforceable remedies, it claims some success in addressing cases where the media clearly oversteps legitimate boundaries. The Labour party, which came to power in the UK in 1997, has pledged its support for the PCC and the possibility of the creation of a statutory press council has now significantly receded.

Broadcasting Content Regulation

Unlike the press, broadcasting regulation in the UK is based on statute and is relatively complex. Private television and radio are regulated, respectively, by the Independent Television Commission (ITC) and the Radio Authority (RA), both provided for in the *Broadcasting Act 1990*.⁶ These bodies have broad licensing powers and the governing statute requires them to establish certain codes to which licensees must conform. They also have broad powers to sanction broadcasters who breach license conditions, including through suspension or revocation of licenses. The British Broadcasting Corporation (BBC), a public service broadcaster, is not subject to ITC licensing, and has instead established an internal system for processing complaints. All broadcasters – public and private, radio and television – are subject to the jurisdiction of the Broadcasting Standards Commission (BSC). The BSC has a

⁵ Complaint of 24 January 1999. See PCC website.

⁶ C. 42.

broad mandate to undertake standard setting including through developing codes of conduct and by entertaining complaints from members of the public.

Regulation in the Private Sector

The *Broadcasting Act 1990*, as amended and expanded by the *Broadcasting Act 1996*,⁷ establishes two bodies to license and regulate private broadcasting in the UK, the Radio Authority (RA) and the Independent Television Commission (ITC). Members of both bodies are appointed by the government, although in practice they function relatively independently of government control. They are funded by the license fees they charge broadcasters.

In addition to their other responsibilities, both of these bodies have broad powers under the Act to ensure that licensees respect their license conditions. For example, broadcasters must meet the requirements of the Representation of the People Act in relation to election and party political broadcasts. More importantly for our purposes, the *Broadcasting Act 1990* prohibits the broadcasting of:

- any programme which offends good taste or decency;
- material which incites crime or disorder;
- matter which is offensive to public feeling;
- news which is not impartial and accurate;
- religious programmes which are not responsible; and
- any illegal content, such as obscene or racially inflammatory material.⁸

Both the ITC and the RA receive complaints from the public relating to programme content and can also take action of their own motion. They may advise, warn or fine broadcasters and, in extreme cases, may shorten, suspend or revoke a broadcasting licence.⁹ All action taken by the RA and the ITC is post-broadcast. Neither body reviews material before it is broadcast although they may provide guidance to producers if requested.

The *Broadcasting Act 1990* simply lists general categories of unacceptable programme content, as noted above, and leaves detailed elaboration of these categories to the RA and ITC, through codes of conduct which their licensees must uphold.¹⁰ Both bodies undertake extensive research into public opinion and the standards expected of broadcasters and draft codes are widely circulated for comment and approval before being formally adopted or updated. Committees advise both bodies on matters relating to religion and advertising, and viewer and listener panels are regularly convened throughout the country to test public opinion. Because of the more immediate and powerful nature of broadcasting and the legal nature of the system, the relevant codes are necessarily longer and much more detailed than the PCC code.

⁷ C. 55.

⁸ *Broadcasting Act 1990*, ss. 6, 90 and Part VII.

⁹ *Broadcasting Act 1990*, ss. 40-42 and 109-111.

¹⁰ *Broadcasting Act 1990*, ss. 6 and 90.

The Radio Authority has developed two codes, a Programme Code dealing with general programme content and a News and Current Affairs Code.¹¹ The Programme Code is divided into eleven sections, each with several detailed subsections. These deal, amongst other matters, with taste, decency and violence, accuracy, privacy, crime, terrorism, defamation, official secrets, appeals for donations, religious matters, the depiction of royalty, and programme sponsorship. The News and Current Affairs Code is divided into three sections dealing with undue prominence and impartiality (including impartiality of interviewers and chairmen, and the conduct of interviews), expressions of opinion by licensees, and party political and election broadcasts. In 1998 the RA received 615 complaints about radio programming. Only 59 of these complaints were upheld and only one resulted in a fine.¹²

The Independent Television Commission has developed one Programme Code to cover all matters. It was last updated in January 1998 after extensive research and consultation and is the most complete and detailed of all the private broadcasting codes. Its eleven sections, running to 38 pages of closely typed text, cover good taste and decency, violence, privacy and information gathering, impartiality, party political and parliamentary broadcasting, terrorism, crime and anti-social behaviour, charitable appeals, religion, legal matters such as defamation and communications with the public. An abbreviated version of the ITC Programme Code is provided in Appendix Two¹³ and it is examined in some detail below.

The ITC receives a very significant number of complaints each year, regularly numbering in the hundreds every month, and publishes monthly summary reports of these complaints and any action taken, as well as any action taken of its own motion. For example, in February 2000 the ITC received 313 programme complaints broken down by station and category as follows.¹⁴

	Factual				Other			
	ITV	C4	C/S*	C5	ITV	C4	C/S*	C5
Accuracy	33	-	-	-	3	-	-	1
Impartiality	1	2	-	-	-	-	-	-
Other Unfairness	33	10	2	-	10	3	1	2

¹¹ General information about the Radio Authority can be found on their website, www.radioauthority.org.uk. The codes can be found at <http://www.radioauthority.org.uk/Information/Publications/index.html>.

¹² The information provided about complaints comes from the Annual Report 1998, at www.radioauthority.org.uk/information/publications.

¹³ The full text of the ITC Code may be found on the ITC website, at <http://www.itc.org.uk/>.

¹⁴ Taken from the *Programme Complaints and Intervention Reports*, February 2000, also on the ITC website, www.itc.org.uk.

Sexual Portrayal	3	-	-	-	4	-	-	1
Language	1	2	-	-	7	1	1	-
Violence	-	5	-	4	4	2	-	1
Other Taste and Decency	10	11	2	3	24	32	8	3
Racial Offence	3	1	-	-	1	4	-	-
Religious Offence	-	-	-	-	-	-	-	-
Scheduling	6	-	-	-	26	2	1	2
Regionally	-	-	-	-	-	-	-	-
Miscellaneous	7	2	2	-	21	-	3	1
Total	97	33	6	7	100	45	14	11

* Cable and Satellite

None of the complaints made in that month were upheld and no enforcement action was taken by the ITC. In December 1999, 185 complaints were received. Although no enforcement action was taken, several of the complaints were upheld. They related, amongst other things, to inappropriate scheduling of programmes containing violence and bad language, and the broadcast of tasteless jokes.

Enforcement action is undertaken only where absolutely necessary. A high profile example relates to the Kurdish satellite television station Med TV, licensed by the ITC. Med TV was the subject of a formal warning in 1996 and a fine of £90,000 in January 1998 for lack of impartiality in its news broadcasts. In November 1998 it was issued with a final notice to the effect that its licence would be revoked if it failed to comply with the terms of its licence, including the Programme Code, during the following six months. The ITC suspended the station's licence in March 1999 as a result of four broadcasts which it found had included inflammatory statements encouraging acts of violence in Turkey and elsewhere, following the arrest by Turkey of Abdullah Ocalan. After hearing representations from the station, the ITC finally revoked its licence in April 1999.¹⁵

The British Broadcasting Corporation

¹⁵ Kurdish programming soon resumed as part of the Cultural Television (CTV) satellite service which continues to hold an ITC licence. Programmes are produced in Belgium by a production company called BRD and screened by CTV for compliance with ITC and Belgian standards before being broadcast.

The British Broadcasting Corporation is the public service broadcaster in the UK and was established by Royal Charter in 1926. It provides television and radio services both to the UK and beyond. It is funded primarily through the licence fee, which every person who owns a television in the UK must pay, and supplements this with commercial activities. Although it is set up by executive order and its governors are appointed by the government, in practice it functions relatively independently of government and its independence in relation to broadcasting content is formally guaranteed in a detailed agreement between the corporation and the government.¹⁶ Both the Royal Charter and the agreement with the executive require the Corporation to ensure that its broadcasts are accurate and impartial, do not offend good taste or decency or include anything which is likely to incite or encourage crime, lead to disorder or be offensive to public feeling. Broadcasts should also not involve the exploitation of viewers and should treat religion in a responsible manner.¹⁷ The Corporation is required to draw up a code regulating these matters in detail and all producers are required to adhere to the codes, subject to internal procedures.

The BBC has developed a very detailed code, known as the Producers' Guidelines, which is regularly updated.¹⁸ It deals with a broad range of matters including, impartiality, fairness, privacy, surreptitious recording, taste and decency, violence, conflicts of interest, suffering and distress, children, crime and the police, terrorism and national security, politics and politicians, election broadcasts, and general legal matters such as defamation and contempt.

For domestic, licence-fee-funded broadcasting and online services the BBC has set up a Programme Complaints Unit. The unit investigates complaints against the standards set out in the Producers' Guidelines and suggests appropriate measures or sanctions where necessary. Where a complainant is unhappy with the decision of the unit he or she may appeal to the Governors' Programme Complaints Appeals Committee. Decisions of both bodies are published in the quarterly Programme Complaints Bulletin.

Between October and December 1999, the Complaints Unit dealt with 163 complaints concerning 143 broadcast items, of which 15 were upheld. The Complaints Appeals Committee dealt with four complaints, one of which was upheld in part. 22% of the complaints related to alleged general bias (3.5% relating to party political bias), 18% to poor taste, 6.5% to sexual violence and 4.5% to violence in general.¹⁹ A number of responses were taken in relation to complaints which were upheld. These included informing the production team and ensuring they are aware of the requirements of the Producers' Guidelines, ensuring that a programme will not be rebroadcast, including by removing it from the library, and writing individually to all relevant staff to point out breaches.

¹⁶ Clause 2.1 of the Agreement, on the BBC's website at http://www.bbc.co.uk/info/BBCcharter/index_af.htm.

¹⁷ Clause 5 of the Agreement.

¹⁸ The full text is at <http://www.bbc.co.uk/info/editorial/prodgl/index.shtml>.

¹⁹ See, www.bbc.co.uk/info/pcu2ka/analysis.shtml.

Standard Setting for all Broadcasters

The *Broadcasting Act 1996* established the Broadcasting Standards Commission (BSC), with a mandate over all broadcasters, including the BBC and private broadcasters. The BSC has three main functions:

- producing codes of conduct relating to fairness, privacy and standards;
- monitoring, conducting research and compiling reports on standards and fairness in UK broadcasting; and
- receiving and adjudicating upon complaints from the general public.

The BSC is primarily a standard-setting rather than a regulatory body. Its main role is to undertake research with a view to establishing consistent standards across the UK broadcasting sector. It has only two real powers over broadcasters. First, when drawing up or amending their own codes of conduct, the BBC, ITC and RA must take the BSC's codes into account.²⁰ Second, the ITC, RA and BBC are all required to ensure that the relevant broadcaster publishes any adverse finding of the BSC in relation to one of their programmes.²¹

Although the BSC is a new body, it has already established a relatively high profile and receives a significant number of complaints. In 1997-98, for example, it received a total of 3,559 complaints. The vast majority of these related to standards, primarily bad taste, bad language, the inappropriate depiction of sex and violence, racism, the inappropriate depiction of death and drug abuse, items which were regarded as excessively frightening, and the use of child actors. 19% of complaints relating to standards were upheld, as were 45% of complaints relating to fairness.²² Broadcasters whose programmes are found to be in breach of the BSC's Codes are required to publish the findings of the BSC.

In two high profile cases, the BSC received a relatively large number of complaints but found that no breach of its codes had occurred. The first concerned the broadcast, during the election campaign of 1997, of a party political advertisement of the extreme right wing British National Party. While many objected to the broadcast *per se*, the BSC found that, while the complainants' concerns were real, during an election the balance must favour freedom of expression. A significant number of complaints were also received concerning the manner in which the broadcast media covered the death of Diana, Princess of Wales. In each case, the BSC found that broadcasters had performed well in difficult circumstances and dismissed the complaints.

The ITC Programme Code

²⁰ *Broadcasting Act 1996*, s. 107(2).

²¹ *Broadcasting Act 1996*, s. 119.

²² This information is taken from the BSC's Annual Review 1997-1998. See www.bsc.org.uk.

There are, in total, six content codes governing different aspects of broadcasting in the UK. These are the RA's Programme Code and News and Current Affairs Code, the ITC's Programme Code, the BBC's Producers' Guidelines and, covering all broadcasters, the BSC's Code on Fairness and Privacy, and Code on Standards. Amongst this bewildering array of codes there are differences. They do, however, share many fundamental similarities, particularly as they are all required to reflect the general tenor the BSC Codes. Amongst them, the ITC's code is the best known and regularly resorted to. It will therefore be examined in some detail below.²³

The Approach of the ITC Programme Code

In the vast majority of situations, it is quite clear whether or not a certain programme conforms to the standards set out in the ITC Programme Code, and the Code's primary purpose is really to provide guidance in the much more difficult borderline cases. The Code recognises that ultimately, in borderline cases, broadcasters will have to exercise a great deal of discretion in deciding whether or not to broadcast certain types of material. They will need to balance complex competing interests, such as the need to protect children while not overly restricting viewing choices which are suitable for adults. Perhaps the most difficult balancing is between the right of the public to receive information and ideas from a wide range of sources and a number of countervailing considerations such as individual privacy, violence in society and impartiality in the news.

In recognition of the fact that broadcasters will often be faced with very difficult choices, the primary purpose of the Code is to provide them with guidance in the exercise of their discretion, rather than to set out categories of wrongs, breach of which will lead to punishment. As a result, the Code adopts a descriptive approach whereby it sets out in general terms categories of information that it may be unsuitable to broadcast, depending on all the circumstances. In most cases, it then lists a number of factors which should be taken into account in deciding whether, in all the circumstances, particular material should in fact be broadcast, along with examples of situations where it may be acceptable to broadcast material which superficially may appear to be unsuitable.

A number of factors recur throughout the Code, including whether the material in question is properly contextualised, whether it serves a legitimate informational, artistic, dramatic or public purpose, and whether or not a significant number of children are likely to be watching at the time the programme is broadcast. The Code is rarely proscriptive and generally provides a broad range of options within which broadcasters have a certain leeway. A common feature of the Code is the requirement that certain categories of material be cleared by a senior programme executive before being broadcast.

²³ An abbreviated version of the code is attached as Appendix Two.

The three most detailed sections of the Code deal with i) good taste, decency and violence, ii) privacy and information gathering, and iii) impartiality. Other sections deal with a wide range of issues including party political broadcasting, crime, religion and sponsoring or promoting charities. Commercial advertising is not covered by the Programme Code but is regulated by an entirely separate ITC Code.

Good Taste, Decency and Violence

A key concept relating to good taste, decency and violence is the need to protect children and adolescents from material which would be unsuitable or even harmful for them, while not unduly restricting the range of material available to adults. The central means by which the Code achieves this balance is through a system which allows broadcasters progressively more scope to show material which would be unsuitable for children as the evening progresses. The idea is that younger audiences generally go to bed earlier so that the risk of harm to children from a programme shown at midnight is much less than from one shown earlier in the evening, say at 1900. Programmes which are unsuitable for children of a certain age should not normally be shown at a time when a significant number of children of that age would be watching television. A “watershed” time of 2100 is established after which time broadcasters are permitted to assume a significant decline in the number of young children watching television. Broadcasters must, at all times, have particular concern for the interests of younger viewers.

Another protective mechanism established by the Code is that viewers should always be informed in advance about material which they might find offensive so that they can make informed choices about their viewing. Clear and specific warnings must be provided before screening programmes which might be offensive, both before and after the 2100 “watershed”. The Code provides fairly specific guidance regarding appropriate times for screening films, which are centrally classified, and certain categories of film may never be broadcast.²⁴

When depicting bad language, profanity, nudity or sexual intercourse, broadcasters are required to balance the inevitable offence which some people might feel with a number of other factors. These other factors include the fact that such matters are part of every day life, the freedom of expression of writers, producers and performers, and the right of other adults to view such material if they wish. In balancing these interests, account should always be taken of the context and reason for portraying profanity or nudity, and gratuitous depictions should be avoided. The worst language, and the most explicit depictions of nudity or sex, should always be approved by a senior programme executive before being broadcast.

²⁴ The British Board of Film Classification reviews and classifies all commercial films and videos in the UK. Those with “restricted” certificates or which have been refused a classification may not be shown on television at any time.

Similar considerations apply to depictions of violence. Broadcasters have a duty to reflect the fact that violence is a part of everyday life and many people wish to view such material, finding it entertaining. At the same time, broadcasters must take into consideration the fact that violence may shock or even harm some viewers. The Code requires broadcasters to avoid depictions of violence which might encourage indifference to violence or lead some viewers to regard violent behaviour as acceptable. Violence must always be set in context and no distinction should be made between violence for “legitimate” and for “illegitimate” ends. Broadcasters must avoid depictions of violent behaviour, including self-mutilation, which can easily be imitated and err on the side of caution when deciding whether or not to broadcast violent material.

The Code also provides guidance on a number of very specific issues such as hangings, representation of minorities and people with disabilities, and hypnotism and the occult.

Privacy and Information Gathering

Section two of the Code deals with privacy and information gathering. Here the key goal is to provide an appropriate balance between personal privacy, including unnecessary intrusion, and sensationalism, on the one hand, and the public’s interest in, and indeed right to, receive truthful information and entertainment, even when this might sometimes offend, irritate or intrude upon the privacy of particular individuals.

Broadcasters may show material which depicts otherwise anonymous members of the public, or bystanders, without their consent, but only where their words or actions are of a sufficiently public and anonymous nature to warrant this. Individuals who are intended to be specifically identified in broadcasts, including victims of crime or disaster, must be dealt with in a sensitive fashion and should not normally be depicted if they object, unless there is a clear public interest reason for overriding their objections. Where secret recording devices such as hidden cameras are used, or where individuals are tricked or “set-up” into being recorded, broadcasters must obtain specific authorisation from senior programme executives. These methods may in any case only be justified where this is clearly in the public interest. In general, broadcasters must avoid intrusion into places where an individual has a reasonable expectation of privacy.

Impartiality

Section three of the Programme Code contains very detailed guidance on the requirements of impartiality in broadcasting, particularly in relation to news and current affairs programming. Specifically, impartiality rules must be observed when dealing with matters of political or industrial controversy, or relating to public policy, politics or the affairs of government. The Code seeks to ensure that broadcasters present information accurately and do not use

their power unreasonably to influence public opinion or to favour one viewpoint over another when screening programmes dealing with any of these matters.

Care should be taken to ensure that factual reporting is as accurate as possible in all the circumstances. Broadcasters themselves must never “editorialise” and should not use programmes to put forward their own views on issues. Broadcasters must, in addition, always be careful to distinguish factual reporting, or documentary programmes, from the presentation of opinions.

The requirement of neutrality does not mean that every single programme must be strictly neutral but rather that the overall programming of a given broadcaster reflects a fair balance of opinion. Where necessary, programmes which express particular viewpoints should be specifically identified and an opportunity should be provided to those with different views to have their say. The more controversial the issue, the more important this requirement becomes. Editorial independence must always be strictly observed and no particular viewpoint should be given undue prominence. In particular, broadcasters should not let those being interviewed, including politicians and senior public figures, dictate the topics being covered or the way interviews are presented.

News and political broadcasting during election periods is governed by complicated rules set out in legislation dealing specifically with elections. These rules seek to prevent discrimination regarding access to broadcasting by any party, based in part on the established record of that party in previous elections. In particular, no party, including the governing party, should benefit from undue prominence in news or other broadcasts.

Other Matters

When depicting crime or anti-social behaviour, broadcasters must balance the need to accurately portray real life with the need to avoid inciting or encouraging such behaviour. Criminal or anti-social activities should not be presented as acceptable, problem-free or glamorous, and nothing should be broadcast which could adversely affect the outcome of a criminal investigation, or a tense and dangerous situation such as a hijacking.

When dealing with religion, broadcasters must be accurate and fair, and ensure that the beliefs and practices of the religions depicted are not misrepresented. Religious programmes should reflect the fact that religious observance in the UK is mainly Christian, although local services should reflect the religious makeup of the specific community they serve.

Religious programmes on non-specialist channels may not recruit viewers to a particular faith or denigrate other religions but this does not rule out the promotion of a particular religious belief in a programme. Except in the context of a legitimate investigation, religious programmes should not suggest that

living people have special powers, unless these claims can be substantiated. In addition, organisations whose aims are wholly or mainly religious – as opposed to those religious charities who provide aid or assistance without regard to the religion of the beneficiaries – may not make appeals for funds.

The Code also provides fairly detailed rules regarding sponsorship of charities and public service announcements, partly to ensure that these are not abused as a means of getting around the rules relating to commercial advertising.

Conclusion

Any system for regulating the content of what may be printed or broadcast in the media must balance two sets of competing interests. On the one hand, the purpose of this form of regulation is to prevent harmful, illegal or otherwise undesirable content being disseminated through the media. On the other hand, such a regulatory system must protect and promote the rights to freedom of expression and information, not provide an opportunity for public officials to interfere in or harass the media, and respect the professional choices of journalists and other media workers. Achieving the appropriate balance between these interests is a delicate and complicated matter.

The UK system relies, to a significant degree, upon a culture of responsibility within the media and upon mechanisms geared primarily towards assisting media professionals exercise that responsibility in an informed and enlightened manner. It also relies on either purely self-regulatory bodies, or bodies which are independent of government and which consult closely with media professionals when developing standards and approaches. The systems in place in the UK ensure, most clearly in relation to the press but also in the broadcast sector, that regulatory standards are generally accepted by media professionals.

At the same time, the codes of conduct established by the various regulatory bodies are necessarily flexible and subject to constant change. It is impossible to provide clear, firm guidance given the almost infinite range of situations with which the media are faced. Instead, the codes provide general rules of thumb, along with factors to be taken into account when applying these rules. While this lacks clarity, it does reflect the working reality for the media and has the advantage of protecting the media both from direct government control, which might be abused, and from professional complacency. At the same time, it can place a heavy burden on regulatory bodies called upon to adjudicate complaints, given the wide margin of interpretation the codes allow.

For a system like that of the UK to be effective, fair and to operate in the overall public interest, two conditions must be met. First, journalists and other media professionals must constantly strive to be highly professional, to remain aware of the evolving standards in the codes to which they are subject, and to act in the “public interest”. Second, members of regulatory bodies must develop and interpret their codes of conduct in a manner that recognises the power of the media to cause harm but that is, at the same time, responsive to

the needs of the media, and the overriding imperative of freedom of expression and the need to promote a free flow of information and ideas to the public.

Appendix One: The Press Complaints Commission Code

1. Accuracy

- i) Newspapers and periodicals should take care not to publish inaccurate, misleading or distorted material including pictures.
- ii) Whenever it is recognised that a significant inaccuracy, misleading statement or distorted report has been published, it should be corrected promptly and with due prominence.
- iii) An apology must be published whenever appropriate.
- iv) Newspapers, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact.
- v) A newspaper or periodical must report fairly and accurately the outcome of an action for defamation to which it has been a party.

2. Opportunity to reply

A fair opportunity for reply to inaccuracies must be given to individuals or organisations when reasonably called for.

*3. Privacy **

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence. A publication will be expected to justify intrusions into any individual's private life without consent.
- ii) The use of long lens photography to take pictures of people in private places without their consent is unacceptable.

Note - Private places are public or private property where there is a reasonable expectation of privacy.

*4. Harassment **

- i) Journalists and photographers must neither obtain nor seek to obtain information or pictures through intimidation, harassment or persistent pursuit.
- ii) They must not photograph individuals in private places (as defined by the note to clause 3) without their consent; must not persist in telephoning, questioning, pursuing or photographing individuals after having been asked to desist; must not remain on their property after having been asked to leave and must not follow them.
- iii) Editors must ensure that those working for them comply with these requirements and must not publish material from other sources which does not meet these requirements.

5. Intrusion into grief or shock

In cases involving personal grief or shock, enquiries should be carried out and approaches made with sympathy and discretion. Publication must be handled sensitively at such times but this should not be interpreted as restricting the right to report judicial proceedings.

*6. Children **

- i) Young people should be free to complete their time at school without unnecessary intrusion.
- ii) Journalists must not interview or photograph a child under the age of 16 on subjects involving the welfare of the child or any other child in the absence of or without the consent of a parent or other adult who is responsible for the children.
- iii) Pupils must not be approached or photographed while at school without the permission of the school authorities.
- iv) There must be no payment to minors for material involving the welfare of children nor payments to parents or guardians for material about their children or wards unless it is demonstrably in the child's interest.

v) Where material about the private life of a child is published, there must be justification for publication other than the fame, notoriety or position of his or her parents or guardian.

7. Children in sex cases

1. The press must not, even where the law does not prohibit it, identify children under the age of 16 who are involved in cases concerning sexual offences, whether as victims or as witnesses.

2. In any press report of a case involving a sexual offence against a child -

- i) The child must not be identified.
- ii) The adult may be identified.
- iii) The word "incest" must not be used where a child victim might be identified.
- iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

*8. Listening Devices **

Journalists must not obtain or publish material obtained by using clandestine listening devices or by intercepting private telephone conversations.

*9. Hospitals **

- i) Journalists or photographers making enquiries at hospitals or similar institutions should identify themselves to a responsible executive and obtain permission before entering non-public areas.
- ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

*10. Reporting of crime **

- (i) The press must avoid identifying relatives or friends of persons convicted or accused of crime without their consent.
- (ii) Particular regard should be paid to the potentially vulnerable position of children who are witnesses to, or victims of, crime. This should not be interpreted as restricting the right to report judicial proceedings.

*11. Misrepresentation **

- i) Journalists must not generally obtain or seek to obtain information or pictures through misrepresentation or subterfuge.
- ii) Documents or photographs should be removed only with the consent of the owner.
- iii) Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

12. Victims of sexual assault

The press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and, by law, they are free to do so.

13. Discrimination

- i) The press must avoid prejudicial or pejorative reference to a person's race, colour, religion, sex or sexual orientation or to any physical or mental illness or disability.
- ii) It must avoid publishing details of a person's race, colour, religion, sexual orientation, physical or mental illness or disability unless these are directly relevant to the story.

14. Financial journalism

i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to

others.

- ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.
- iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

15. Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

*16. Payment for articles **

- i) Payment or offers of payment for stories or information must not be made directly or through agents to witnesses or potential witnesses in current criminal proceedings except where the material concerned ought to be published in the public interest and there is an overriding need to make or promise to make a payment for this to be done. Journalists must take every possible step to ensure that no financial dealings have influence on the evidence that those witnesses may give.

(An editor authorising such a payment must be prepared to demonstrate that there is a legitimate public interest at stake involving matters that the public has a right to know. The payment or, where accepted, the offer of payment to any witness who is actually cited to give evidence should be disclosed to the prosecution and the defence and the witness should be advised of this).

- ii) Payment or offers of payment for stories, pictures or information, must not be made directly or through agents to convicted or confessed criminals or to their associates - who may include family, friends and colleagues - except where the material concerned ought to be published in the public interest and payment is necessary for this to be done.

The starred (*) Articles are subject to the public interest override provisions

Appendix Two: The ITC Programme Code (Abbreviated Version)

Foreword

Section 1: Offence to Good Taste and Decency, Portrayal of Violence

Section 2: Privacy, gathering of Information, etc

Section 3: Impartiality

Section 4: Party Political and Parliamentary Broadcasting

Section 5: Terrorism, Crime, Antisocial behaviour, etc

Section 6: Other Legal Matters

Section 7: Images of Very Brief Duration

Section 8: Charitable Appeals and Publicity for Charities

Section 9: Religion

Section 10: Other Programme Matters

Section 11: Communication with the Public

FOREWORD

The ITC must draw up and enforce a code governing due impartiality and a general code governing the portrayal of violence, appeals for donations and such other matters concerning standards and practice for programmes as the Commission considers appropriate.

The Code applies to all terrestrial, cable and satellite services licensed by the ITC and to certain foreign satellite programmes included in local delivery services licensed by the ITC. All licensees are required to ensure that any programmes they transmit comply with this Code and to satisfy the ITC that they have adequate procedures to fulfil this requirement. The ITC itself draws up and revises the Code, monitors compliance and investigates complaints. It has the power to impose sanctions, including fines, on licensees who do not comply with the Code.

SECTION ONE: Offence to Good Taste and Decency, Portrayal of Violence, etc.

1.1 General requirement

The ITC must do all it can to ensure that licensed services do not offend against good taste or decency, or encourage or incite to crime or lead to disorder or be offensive to public feeling. The ITC must also draw up a code giving guidance as to the rules to be observed with respect to the showing of violence.

1.2 Scheduling

1.2(i) Family Viewing Policy

Material unsuitable for children must not be broadcast at times when large numbers of children may be expected to be watching. However, even though some children are always likely to be present in the audience, there should be a wide range of programmes appropriate for adults and including serious subject matter.

1.2(ii) Premium Subscription Services

Where a programme service is only available to viewers on payment of a premium rate fee, its availability to children will be more restricted and the time at which parents may be expected to share responsibility for what is viewed may be shifted.

1.2(iii) Pay-Per-View (PPV)

Special rules apply to programmes (including feature films) available only to PPV subscribers, described in Appendix 5 to this Code.

1.2(iv) Acquired material, including feature films

The contents of the Code apply to the selection of acquired material including films as well as to the production of programmes.

The following basic rules apply:

- (a) No '12' rated version should normally start before 8.00pm on any service.
- (b) No '15' rated version should normally start before 9.00pm (or 8.00pm on premium rate subscription services contents permitting).
- (c) No '18' rated version should start before 10.00pm on any service.
- (d) No 'R18' rated version should be transmitted at any time.
- (e) No version which has been refused a BBFC certification should be transmitted at any time.

1.2(v) Trailers and programme promotion clips

Programme trailers must themselves comply with Family Viewing Policy.

1.3 Warnings

Warnings are unlikely to be appropriate during family viewing time. However, appropriate information should be provided at the start of programmes, or, where necessary, prior to any news report which might disturb younger children.

1.4 Language

There is no absolute ban on the use of bad language. But many people are offended, some of them deeply, by the use of bad language, including expletives with a religious association. If therefore the freedom of expression of writers, producers and performers is not to be jeopardised, gratuitous use of bad language

must be avoided. It must be defensible in terms of context and authenticity, and should not be a frequent feature of the schedule.

1.5 Sex and nudity

Similar considerations apply. Much great drama and fiction has been concerned with love and passion which can shock or disturb. Popular entertainment and comedy have always relied to some extent on sexual innuendo and suggestive behaviour. But gratuitous offence should be avoided. The portrayal of sexual behaviour, and of nudity, needs to be defensible in context and presented with tact and discretion.

1.6 Violence

The real world contains violence in many forms. Television has a duty to reflect this. On the other hand, the portrayal of violence, whether physical, verbal or psychological, is an area of public concern. Some violence may go beyond the bounds of what is tolerable for the average viewer. Some violence may potentially be so disturbing that it might be psychologically harmful, particularly for young or emotionally insecure viewers. Violence on television may be imitated in real life. Regular and recurrent violence might lead viewers to view it as acceptable behaviour and may encourage indifference to the suffering of the victims of violence.

1.6(i) The portrayal of violence in programmes

Licensees should avoid an undue concentration in the schedule of programmes containing violence. The time of screening of each programme is important. There is no evidence that the portrayal of violence for good or 'legitimate' ends is likely to be less harmful than the portrayal of violence for evil ends. There is no evidence that 'sanitised' violence, in which the consequences are concealed, minimised or presented in a ritualistic way, is innocuous. Viewers are most likely to be offended by explicit images of distress and injury, and of blood, particularly if they occur suddenly or unexpectedly. There can be no defence of violence shown or heard solely for its own sake, or of the gratuitous presentation of sadistic or other perverted practices. Ingenious and unfamiliar methods of inflicting pain or injury, which are capable of easy imitation, should not be included. Scenes which may unsettle young children need special care, especially scenes of domestic friction.

1.6(ii) Suicide and suicide attempts

The evidence that the portrayal of a suicide attempt may be imitated by a viewer is inconclusive. The subject should nevertheless, as a matter of common sense, be handled with discretion and care.

1.6(iii) Violence in the News

All news subjects should be presented in a manner that takes account of the likely composition of the audience and appropriate warnings should be given. Footage of executions or other scenes in which people are clearly seen being killed or about to die require exceptional justification. Special consideration should be given to the possible effect of coverage of violent events in the United Kingdom upon local viewers for whom it might cause particular anxiety.

1.7 Dangerous behaviour

Portrayal of dangerous practice and behaviour which is capable of and likely to be easily imitated by the public should be avoided unless it can be justified by the dramatic and editorial requirements of the programme.

1.8 Hanging scenes

No film or programme including hanging or preparations for hanging capable of easy imitation should be scheduled during family viewing time.

1.9 Treatment of minorities

1.9(i) Ethnic minorities

Racist terms should be avoided. Their inclusion is acceptable only where it can be clearly justified within the context of the programme. The programme schedule should give a fair reflection of the contribution of all races to society.

1.9(ii) People with disabilities

The same concerns apply to the portrayal of disabled people. There is a danger of offence in the use of humour based on physical or mental disability, even where no malice is present. Unnecessary reference to disability should be avoided and patronising expressions such as 'crippled with', 'victim', 'handicapped' should where possible be replaced by more neutral terms.

1.9(iii) Other minorities

Similar considerations apply to the treatment of other, less obvious and vulnerable, minorities including older people, homosexuals, and minority religious faiths or language groups.

1.10 Hypnotism

Care needs to be taken to minimise the risk of hypnosis being induced in susceptible viewers. In particular, the hypnotist must not be shown performing straight to camera.

1.11 The Occult

Demonstrations of exorcisms or psychic or occult practices are not permitted in factual programming, except where they are the subject of a legitimate investigation.

1.12 Recorded programmes

Programmes not used immediately should be checked before transmission to ensure that any content is not rendered tasteless by intervening events, such as death, injury or other misfortune.

1.13 Referring up

Where a producer has any doubt about the suitability of material covered in this Code, he or she must refer upwards to the most senior programme executive or the designated alternate for advice or approval.

SECTION TWO: Privacy, Gathering of Information, etc.

2.1 General

The broadcasters' freedom of access to information and their freedom to publish are subject to certain limitations. There will be occasions when the individual's right to privacy must be balanced against the public interest. Examples of serving the public interest may include detecting or exposing crime, protecting public health or safety, preventing the public from being misled or exposing significant incompetence in public office.

2.2 Filming and recording of members of the public

When coverage is being given to events in public places, editors and producers must satisfy themselves that words spoken or action taken by individuals are sufficiently in the public domain to justify their being communicated to the television audience without express permission.

2.2(i) Filming and recording in institutions, etc.

When filming with permission in an institution, such as a hospital, factory, or department store, which has regular dealings with the public, but which would not normally be accessible to cameras, as a general rule, no obligation to seek agreement arises when the appearance of the persons shown is incidental and they are clearly random and anonymous members of the general public.

2.2(ii) Filming on police operations

When permission is given to film police operations involving members of the public in other than public places it is the responsibility of the producer to make his position known to the members of the public involved. If asked to stop filming or to leave premises by the person responsible for the premises or police, they should normally comply.

2.2(iii) Fairness to innocent parties

Where innocent parties are central figures in any programme concerning a serious crime, a tragic event or disaster, special care should be taken not to present them in an unfair light.

2.3 Recorded telephone interviews

Interviews or conversations conducted by telephone should not normally be recorded for inclusion in a programme unless the interviewer has identified himself or herself and the interviewee has given consent to the use of the conversation in the programme. There may be rare occasions, such as those involving investigation of allegedly criminal or otherwise disreputable behaviour, when these normal requirements cannot be observed.

2.4 Hidden microphones and cameras

The use of hidden microphones and cameras to record individuals who are unaware that they are being recorded is acceptable only when it is clear that the material so acquired is essential to establish the credibility and authority of a story, and where the story itself is equally clearly of important public interest.

2.5 Scenes of extreme suffering and distress

Scenes of human suffering and distress are often an integral part of a report and may be a proper subject for direct portrayal but a producer needs to balance this against the risk of sensationalism and the possibility of an unwarranted invasion of privacy.

2.6 Interviewing of children

Interviewing of children requires care. Children should not be questioned to elicit views on private family matters, nor asked for expressions of opinion on matters likely to be beyond their judgement.

2.7 Reporting of sexual offences against children

Reports should not, even where the law does not prohibit it, identify living children under 16 who are involved in police enquiries or court proceedings concerning sexual offences, whether as victims, witnesses or defendants. In any report of a case involving a sexual offence against a child, care should be taken to avoid anything that might contribute to the identification of the child.

2.8 Set-up situations

Set-up situations where members of the public or celebrities are featured without their knowledge or without prior warning should always be carefully considered, and safeguards used to prevent unwarranted invasions of privacy.

2.9 Interviews without prior arrangement

Impromptu interviews with public figures and people in the news are usually unproblematic. However interviews sought on private property without the subject's prior agreement should not be included unless they have a public interest purpose. The same consideration applies to restaurants, churches and other places where the subject would reasonably expect personal privacy.

2.10 Video News Releases and other acquired news material

In general, licensees should be careful to avoid more than occasional use of such material. There must always be strong editorial reason for its inclusion in programmes.

SECTION THREE: Impartiality

3.1 Objectives

Licensees may make programmes about any issues they choose. This freedom is limited only by the obligations of fairness and a respect for truth. Impartiality does not mean that broadcasters have to be absolutely neutral on every controversial issue, but they should deal even-handedly with opposing points of view. Opinion should be clearly distinguished from fact.

3.2 The legal position

3.2(i) Due impartiality

The term 'due' should be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme. Due impartiality does not mean that 'balance' is required in any simple mathematical sense or that equal time must be given to each opposing point of view.

3.2(ii) Editorialising

The avoidance of editorialising on the part of licensees is integral to the preservation of due impartiality in the service they provide. Licensees may not use programmes to put forward their own views on such matters.

3.3 Impartiality over time

There are times when licensees will need to ensure that the principal opposing viewpoints are reflected in a single programme or programme item. At other times, a narrower range of views may be appropriate within individual programmes.

3.3(i) The 'series' provision

A series of programmes may be considered as a whole.

3.4 Programme content: 'major matters'

The Act requires the Code to take particular account of the impartiality due to major matters of political or industrial controversy or relating to current public policy.

3.5 News

In addition to the general requirements relating to matters of political or industrial controversy or current public policy, the Act requires that any news, given in whatever form, must be presented with due accuracy and impartiality.

3.6 Personal view programmes

Programmes in which an individual contributor is given the opportunity to put forward his or her own views have a valuable place in the schedules. They are, however, subject to the following specific safeguards. Such programmes must be clearly identified as giving a personal viewpoint. Facts must be respected, and licensees have an obligation to do what they can to ensure that the opinions expressed, however partial, do not rest upon false evidence. A suitable opportunity for response to the programme should be provided, where appropriate.

3.6(i) Personal view programmes: the timescale

A series of personal view programmes has no need to give equal time to every relevant point of view. But licensees should take care to ensure that a sufficiently broad range of views is expressed in any series of such programmes

3.7 Drama and drama-documentary

Drama is by definition the work of a creative imagination and the impartiality due in respect of a play is not the same as that required of a current affairs programme. Nevertheless, questions of impartiality and fairness may arise in the area of drama. A clear distinction should be drawn between plays based on fact and dramatised documentaries which seek to reconstruct actual events.

3.7(i) Dramatised 'reconstructions' within factual programmes

The use of dramatised 'reconstructions' in factual programmes is legitimate, so long as it does not distort reality.

3.7(ii) Simulated news bulletins

Any simulation of a television news bulletin or news flash to be included in any programme should either be subtitled or produced in such a way that there can be no reasonable possibility that it could be taken to be an actual news bulletin.

3.8 Fairness in the conduct of interviews

Interviewees should be made adequately aware of the format, subject matter and purpose of the programme to which they have been invited to contribute, and the way in which their contribution is likely to be used.

3.8(i) Editing of interviews

Impartiality and fairness apply equally to the editing of interviews as to their conduct. Editing to shorten recorded interviews must not distort or misrepresent the known views of the interviewee.

3.8(ii) Interviews with politicians

Appearances by politicians in news and current affairs programmes are governed by the requirements of due impartiality.

3.8(iii) Politicians in programmes

Programmes in which politicians appear in a non-political role present different problems, and care and discretion are required over the use of such persons to produce or present programmes. No currently active politicians should appear as newscasters, interviewers or reporters in any news programme, unless their use can be clearly justified, in which case their party allegiance should be clearly identified.

SECTION FOUR: Party Political and Parliamentary Broadcasting

4.1 Party Political and Party Election Broadcasts

Sections 4.1 (i) and (ii) of the Code are currently under review.

4.1(iii) Code compliance

Editorial control of the content of Party Political and Party Election Broadcasts normally rests with the originating political party but licensees are responsible to the ITC for ensuring that nothing transmitted breaches Programme Code requirements on matters of offence to good taste and decency.

4.1(iv) Referral of disputes

Unresolved disputes over the allocation, duration or frequency of Party Political or Party Election Broadcasts must be referred to the ITC by or on behalf of the relevant licensees.

4.2 Appearances in programmes by candidates at the time of an election

Detailed guidance on appearances by candidates at the time of elections is provided in Appendix 3 to this Code.

4.3 Use of recordings of Parliamentary proceedings

Care is always required in the use of recordings of Parliamentary proceedings. This must be confined to news, news magazines, current affairs, documentary and educational programmes, and any accompanying material must not be a comment, explicit or implicit, on the proceedings.

SECTION FIVE: Terrorism, Crime, Anti-Social Behaviour, etc.

Any programme which, on any reasonable judgement, would be said to encourage or incite crime or to lead to disorder is unacceptable.

5.1 Interviews with criminals

All legal considerations should be borne in mind.

5.2 Payments

No payment should be made to a criminal whose sentence has not yet been completed. Former criminals should not be paid for interviews about their crimes unless an important public interest is served.

5.3 Terrorist or criminal activity

Particular care is required with a programme which carries the views of people or organisations who use or advocate the use of violence or other criminal activity to attain political or other ends.

5.4 Hijacking and kidnapping reports

It is unacceptable to broadcast any information that could endanger lives or prejudice the success of attempts to deal with a hijack or a kidnapping.

5.5 Demonstration of criminal techniques

In programmes dealing with criminal activities, careful thought should be given and, where appropriate, advice taken from the police, before items are included which give information about criminal methods and techniques.

5.6 Relations with the police

Programmes designed to solicit public support in the prevention and detection of crime produced in association with the police can be a valuable public service. Care has to be exercised in transmitting photographs of persons wanted by the police. Licensees should not be seen as an agent of the police, rather than an independent upholder of law and order.

5.7 Presence of television cameras at demonstrations and scenes of public disturbance

The presence of television cameras may, however unwittingly, encourage incidents that would not otherwise have occurred. Incidents known to be 'manufactured' should be excluded or revealed for what they are.

5.8 Reports on young offenders

It may be an offence to publish the names or addresses of persons aged 17 or under who are involved in court proceedings.

5.9 Smoking and drinking

Tobacco and alcohol can constitute a major health risk and it is therefore desirable that programmes generally should not include smoking and drinking unless the context or dramatic veracity requires it. Tobacco advertising is specifically banned from television.

5.10 Drug taking and solvent abuse

Drugs, drug addiction and their effect are valid subjects for television programmes but care needs to be taken to avoid any impression that drugs are an acceptable feature of modern society.

5.11 Advice on health and related matters

Advice for viewers on health, medical and similar concerns should be based upon professional medical opinion. It should not be included in comment from astrologers, palmists or other 'psychic' advisers.

SECTION SIX: Other Legal Matters

6.1 Defamation

Licensees need to be aware of the law on defamation and of what may constitute a defamatory statement.

6.2 Contempt of court

The law of contempt places a temporary embargo on the publication or broadcast of information which might influence the course of judicial proceedings. It is normally a criminal offence.

6.3 Official Secrets Acts and Defence Advisory Notices

Licensees producing factual programmes which may touch on matters of state security must be familiar with the Official Secrets Acts.

6.4 Appearances by children in programmes

Performances by children under the upper limit of compulsory school age are controlled by Home Office regulations. All such performances require a licence from the Local Education Authority in whose area the child lives.

SECTION SEVEN: Images of Very Brief Duration

7.1 General requirements

The ITC must do all it can to ensure that programmes do not include any technical device which exploits the possibility of influencing persons watching the programmes without their being aware of what has occurred.

7.2 Programme practice

Images of very brief duration are unlikely to be in conflict with the Act unless there is some intention of covertly influencing the minds of viewers, for example for a commercial or political purpose.

7.3 Use of flashing images or repetitive patterns

Flickering or intermittent lights and certain types of repetitive visual patterns can cause problems for some viewers who have photo-sensitive epilepsy.

SECTION EIGHT: Charitable Appeals and Publicity for Charities

The ITC is required to give guidance as to the rules to be observed with respect to appeals for donations.

8.1 Funds to make programmes

Licensees are not permitted to broadcast appeals for funds to make programmes.

8.2 Appeals in general

Before broadcasting an appeal a licensee must satisfy itself that the organisation concerned is a registered charity.

8.3 Religious charities

Appeals for funds on behalf of religious charities may be permitted only if the charities can demonstrate that any proceeds from such appeals will be devoted solely to disadvantaged third parties, and that they will not be associated with promotion of any other objective (e.g. proselytising).

8.4 Disaster appeals

Special appeals may be requested, following a disaster overseas, by the Disasters Emergency Committee (DEC), which consists of major UK charities active overseas.

8.5 Publicity for charities in programmes

Publicity, other than a direct appeal for funds, which constitutes a quasi-appeal for funds should be considered with care.

8.6 Spontaneous public response to programmes.

A report of a disaster or an account of particular charitable work may evoke a spontaneous response from viewers to donate funds. If a programme is being prepared which is likely to give rise to a large response, the licensee should plan what information and advice to give to the public.

8.7 Fund-raising programmes and coverage of fund-raising events

Programmes designed specifically to raise money for charity through appeals to viewers must comply with the ITC Code of Programme Sponsorship.

8.8 Community Service Announcements (CSAs)

Community Service Announcements (CSAs) provide publicity for local voluntary and community organisations and are transmitted free of charge between programmes. It is the responsibility of licensees to check the credentials of organisations applying for CSAs and their ability to cope with the response to transmission. Services described in CSAs should be free or for a nominal charge only.

SECTION NINE: Religion

This section applies both to programmes specifically categorised as religious and to general programmes which deal with religious matters.

9.1 General requirement

Due responsibility must be exercised with respect to the content of religious programmes. In particular such programmes must not involve any improper exploitation of any susceptibilities of those watching the programmes or any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.

9.2 Misrepresentation

Every attempt must be made to ensure that the belief and practice of religious groups are not misrepresented and that programmes about religion are accurate and fair.

9.3 Representativity

Religious programmes on Channels 3, 4 and 5 should reflect the worship, thought and action of the mainstream religious traditions present in the United Kingdom.

9.4 Identity

The identity of religious bodies featured in programmes must be clear to the viewer, where practicable in sound and vision.

9.5 Appeals

Programmes may not normally include appeals for money by organisations whose aims are wholly or mainly religious.

9.6 Recruitment

Religious programmes may be used to propound religious belief but, at least on non-specialist channels, may not be designed to recruit viewers to any particular religious faith.

9.7 Preying on fears

Religious programmes must not influence viewers by preying on their fears.

9.8 Supernatural Powers

Except in the context of a legitimate investigation, religious programmes may not contain suggest living people or groups have special powers or abilities, which are incapable of being substantiated.

9.9 Published material

The conditions set out in Section 10.3 apply to published material, such as a book, tape, video or information pack, which is clearly related to a programme.

SECTION TEN: Other Programme Matters

10.1 Use of recordings of Royal occasions and of the Royal Family

Permission should be sought from Buckingham Palace to use recordings of Royal occasions or any part of broadcasts by members of the Royal Family.

10.2 Obituary procedures

Licensees should where appropriate have procedures for the interruption, and if need be, cessation of programming following the death of a member of the Royal Family or certain other eminent national and international figures.

10.3 Promotions

10.3(i) General rules

Products or services may not be promoted in programme time. Promotions likely to appeal to children must advise children to seek parental permission before making any purchase. Promotions must be brief and be

confined to the name of the item, the cost (if any), and how to get it. Names of retail outlets must not be given. Any statement of why the item is a useful addition to the programme must be short and factual.

10.3(ii) Magazines and information packs

Where a publication is clearly ancillary to a programme, the licensee may mention its availability immediately after the programme and may separately refer to it in a trailer for that programme. The publication must be produced or commissioned by the licensee who must retain responsibility for it.

10.3(iii) Off-air activities

An off-air activity is defined as a helpline or information line (including the provision of back-up and liaison material through viewers' computer systems at standard telephone rates), conference, festival, exhibition, performance or programme-based club. It must be organised by a licensee or on a licensee's behalf to support a programme and provide a service for viewers.

10.3(iv) Music, videos, books

A programme series may create a popular demand for the theme music or for a video or book version of the series. In these circumstances, a brief mention may be made about availability on the lines set out at 10.3(i) above.

10.3(v) Social action and educational programmes or programme items

Announcements about material or activities that are clearly related to social action and educational programmes or programme items may be included within the programme itself, provided that only free phone or standard rate telephone services (not premium rate services) are used, that factsheets or information packs are available freely or at nominal cost and that sponsorship or advertising of any kind is excluded from the announcements and the materials or services.

10.4 Use of premium rate telephone services in programmes

The licensee must retain control of and responsibility for the service arrangements and the premium line messages (including all matters relating to their content). A premium rate message may only be used to convey information which is directly relevant to the programme with which it is associated, and which is of benefit to viewers. The call charge rate must be stated clearly and simultaneously with the premium rate number.

10.5 Prizes in children's programmes

Prize values in, or associated with, children's programmes should normally be considerably lower than those on offer to adults.

10.6 Undue prominence

No undue prominence may be given in any programme to a commercial product or service.

10.6(i) Advertisements within programmes

As a general rule, television advertisements should be confined to paid-for advertising time. Exceptions may be made where it is necessary in a news or factual programme to include a reference to or extract from a particular advertisement.

10.7 Viewers' competitions

Special rules concerning, for example, the nature of the questions asked, the prizes offered, and any references to products or services, apply to competitions involving participation by viewers.

SECTION ELEVEN: Communication with the Public

11.1 Handling complaints from viewers

Members of the public who wish to contact a licensee should have no difficulty in doing so and their complaints should be properly dealt with.

11.2 Programme recordings and transcripts

11.2(i) Provision to the ITC

The ITC may require a licensee to retain recordings of programmes for up to 90 days and to provide it with recordings or transcripts of broadcast material.

11.2(ii) Provision to others

When a person or organisation makes a reasonable claim that something derogatory has been broadcast about them, or that they are affected by alleged criticism, unfairness or inaccuracy, a recording or transcript should normally be provided to them. The licensee may, however, initially attempt to satisfy the complainant in some other way, for example by a letter of explanation or apology.