

## Section Four

# Religion

## I General Summary of Responses

We have received substantive responses from the BBC, ITV, Channel 4 and Five, S4C, the Bishop of Manchester for the Church of England, the Catholic Bishops' Conference of England and Wales, the Church of Ireland Broadcasting Committee, the Churches Media Council, the Evangelical Alliance, the Christian Broadcasting Council, the General Assembly of Unitarian and Free Churches, the Christian Institute, the Muslim Council of Britain, the Chief Rabbi's Office, the British Union Conference of Seventh-Day Adventists, the British Humanist Association, National Secular Society, New Humanist, Maranatha, Centre for Justice and Liberty, United Christian Broadcasting, Capital Radio, Chrysalis, the Commercial Radio Companies Association, MediaWise, mediawatch-uk, Campaign Against Censorship, the RNIB, a member of the UN Association Religious Advisory Committee, River of Life Church and Associated Ministries, one confidential respondent and a number of individuals.

### Responses to the Consultation

The General Assembly of Unitarian and Free Churches says the draft code is legalistic in tone and does not fit in well in an area which is really a matter of opinion. It doubts that the draft rules set out are achievable. The Church of England comments that it is important that nothing in the Broadcasting Code ought to impede the production of a full range of programmes covering religion.

The Evangelical Alliance supports these draft rules, which largely mirror the Christian worldview, and believes that there must be a clear divide between academic criticism or critique and outright destructive "blasphemy" and hatred. The Evangelical Alliance thinks that Ofcom must ensure that religious material is not targeted as harmful and offensive by individuals or groups who are hostile to a certain faith group's worldview. The Evangelical Alliance believes that these draft rules "cover the intentions of the Act and allow for the freedom to express Christian and other religious beliefs, while respecting the dignity of others."

The Chief Rabbi's Office says that broadcasting can provide opportunities for minority communities to allow their voice to be heard in the national arena. This has allowed many groups to become part of a national conversation on spirituality and society. In this way, religious programming can make a substantial contribution to addressing ignorance and misconceptions about faiths, and also to sustaining a climate of tolerance between the faith and ethnic communities in Britain.

Maranatha believes that religion is being seriously marginalised and that the commitment of programme producers to inter faith compromise has led to bland religious programming.

MediaWise believes this section does not make clear how broadcasters should handle atheism, humanism or cult behaviour.

Campaign Group Centre for Justice and Liberty believes Ofcom should review audience religious susceptibility issues with a lighter touch for programmes broadcast on mainly specialist channels.

Regarding contentious religious issues, United Christian Broadcasting believes that clarification on how much balance would be required would be helpful. All invitations to

believe should be free of any threats, coercion or deception and there should be a clear delineation between any offer to respond and any request for finance, membership or purchasing of resources. It would also like clarification on how religious belief is viewed and interpreted by Ofcom. United Christian Broadcasting believes there needs to be greater freedom for religious groups to deal with other contentious subjects, including topics such as belief in the Bible versus the Koran, does prayer really work and for whom, creationism versus evolution, and biblical teaching on abortion. In addition, it believes there should be an opportunity for complaints to be addressed directly by the broadcaster before Ofcom gets involved. Religious programmes should be exempt from a “general” rule on specialist Christian channels due to difference in standards. There needs to be clarification in guidance on how religious belief is viewed in terms of the fundamental human right, freedom of expression.

An individual questions why religious programmes are subject to additional rules, noting that broadcasters should have the same degree of responsibility regarding the content of any programme. “Is there not a possibility that additional restrictions placed on religious programmes could be challenged under the Human Rights Act on grounds of religious freedom?”

Four individuals believe the draft principles, rules, and meanings are necessary, consistent, and achievable. S4C believes that the draft rules are clear and consistent but it does not anticipate any marked changes in the way the rules are applied.

The CBC supports these draft rules. It does not want to abuse the views and beliefs of others but does want to announce the Christian message of God’s good news to one and all without being restricted. The CBC believes that the draft rules reflect the Communications Act 2003 (“the Act”) and allow for the freedom to express Christian and other religious views, while respecting the dignity of others. The Church of Ireland Broadcasting Committee, Churches’ Media Council and Ligali agree with these draft rules and principles. mediawatch-uk agrees with them provided phrases like “abuse” and “improper exploitation” are made clearer.

An individual says regulation of religious programming should apply the same principles as other kinds of programming: material should not be deceptive; exploit vulnerable people; present untrue information as factual; gainsay or attempt to subvert accepted scientific truth or incite hatred, crime or terrorism. One individual was confused whether films such as Life of Brian would fall foul of these draft rules.

New Humanist would like the definition of religion as follows: “A collective belief in or other adherence to a systemised set of ethical or philosophical principles based on mystical or transcendental doctrines.”

An individual believes that public service broadcasting should include religion and present this in a positive manner. Maranatha believes that it must be recognised that religious differences can be addressed without ill will. Another individual suggests that either all religions and opinions be granted equal free-to-view airtime, or that religious beliefs not be aired at all.

The Church of England could not suggest any further rules, principles or meaning that might be necessary to cover the intentions of the Act. Nor could Ligali, Channel 4 and Five, ITV, the Churches’ Media Council and the Church of Ireland Broadcasting Committee.

An individual believes religious programming should not be allowed to air on free-to-air programming.

358 respondents to the consultation do not feel there is enough religion shown on TV, while nine respondents feel that religious programming in the UK is “too Christian”.

A Member of the UN Association Religious Advisory Committee suggests that Ofcom consider allowing multiple faith perspectives to be debated on lifestyle channels which carry belief system programming. There should be a greater right of reply to what orthodox groups may regard as secular fundamentalist perspectives conveyed within news, discussion, and drama programming which touch upon subjects for example such as family structure and sanctity of life. Also, Ofcom should clarify whether all programmes must have a right to reply slot and, if so, whether these should be broadcast or simply be available. Any right of reply needs to be carefully regulated to prevent it being abused.

A teacher believes that religion is badly presented and too often a subject for comedy. Another individual is critical of the current “liberal” approach. An individual believes the draft code does not reflect Christian values and often seems to ignore them. This person would like to see a change in line with the Christian Broadcasting Council (CBC) memorandum. Two other individuals profess support for the submission from CBC.

One individual supports the view that parents wish to retain control of their children’s religious, moral and philosophical education.

Four individuals believe there should be a specific rule against “blasphemy” to prevent disrespect for moral teaching. Another individual says the same standards for “blasphemy” must be applied across all religions.

An individual complains that what he describes as “normal average Christians” are not allowed to be seen preaching or teaching from typical evangelical services shown on air, particularly given the changes in the law regarding taste and decency. Another individual believes there is too much restriction on what can be broadcast in a country that was once at the forefront of evangelism.

### **Ofcom response**

The right to freedom of expression and the right to freedom of thought, conscience and religion and the associated right to manifest one’s religion or beliefs are human rights contained in Articles 9 and 10 of the Convention. It is essential that regulation set by Ofcom in the area of religious programmes is only regulation that is necessary and prescribed by law.

Ofcom notes respondents’ representations that religion in itself is not harmful. However, Parliament, in this area, has specifically required Ofcom to set standards to protect listeners and viewers from the failure of a proper degree of responsibility, improper exploitation and abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.

The rules in this section are set out to secure the standard objective required by section 319 (2)(e),(6)(a) and (b) and 3(4)(g) of the Act. The wording of the principles and of certain rules (4.1, 4.2 and 4.5) are drawn from the wording of the Act and so they may appear more formal and “legalistic” in tone.

It is clear from responses and research that some in the audience are interested in knowing more about others’ beliefs and in supporting the rights of others to express their beliefs and doctrines freely. We believe the rules, which have been redrafted as a result of the consultation, can be complied with by broadcasters. They should not prevent the production of a full range of programmes on religious matters. They should provide an appropriate level

of freedom of expression while protecting listeners and viewers from the abuses identified in the Act.

We would certainly encourage broadcasters to offer listeners and viewers the opportunity to complain directly to the broadcaster.

We also note the suggestion that specialist religious channels should be able to approach matters differently from other channels. The Broadcasting Code's introduction explains that Ofcom may, in setting the Broadcasting Code, take into account matters set out in section 319(4) of the Act. These criteria include the "likely size and composition of an audience for ... television and radio service[s]" of a particular description and also the likely expectation of the audience as to the nature of a programme's content and the extent to which ... it can be brought to the attention of potential members of the audience". The introduction explains that these "criteria...must be taken into account by broadcasters in interpreting the rules". Therefore, the specialist nature of certain channels would be considered by Ofcom in interpreting the Broadcasting Code.

Contentious issues in religious (or other) programmes may of course be dealt with as long as they comply with the rules in the Broadcasting Code, bearing in mind that, as we have explained, we will take into account the likely expectation of the audience e.g. for a specialist religious service when assessing complaints. If an issue also is a matter of political or industrial controversy or a matter relating to current public policy then the rules contained in Section Five: Due Impartiality, Due Accuracy and Undue Prominence of Views and Opinions of the Broadcasting Code must apply and be complied with. News on specialised religious services must also comply with the due accuracy and due impartiality rules in Section Five as well.

Many of the comments made in response to this consultation were about the provision and quality of programmes on religion. Separately Ofcom commissioned research both upon certain proposed rules in the draft code and upon religious programming. This will be published by Ofcom and can be found on the Ofcom website. It will inform the web-based guidance where appropriate. However Ofcom is not entitled under the Act to set standards in this Broadcasting Code which, for instance, would require that broadcasters should address a range of religions in their programmes as has been suggested. Nor is Ofcom entitled to regulate the amount of religious programming provided (with the exception of PSB services). Generally the matters raised are for Ofcom and relevant PSB broadcasters to address, where appropriate, in the five yearly Public Service Broadcasting reviews (first held in 2004). The comments that have been made have been noted.

Non religious belief systems are not covered by this section of the Broadcasting Code, as explained below under Principles. Complaints that arise regarding programme content about these belief systems will be dealt with in other relevant sections of the Broadcasting Code e.g. Harm and Offence. A cult therefore would be dealt with under this section of the Broadcasting Code if the belief of the cult was religious or elsewhere if the belief was non religious.

Blasphemy is used frequently by respondents in this section. However, blasphemy is a criminal offence and dealt with through the courts. Blasphemy, therefore, is not provided for in any part of the Broadcasting Code, although religious offence is dealt with in Rule 2.3.

Other matters raised in this general summary and elsewhere have been dealt with within the body of the section set out below.

## II Preamble

### Proposed Code, Section Four: Religion

The rules in this section apply to religious programmes.

#### Responses to the Consultation

Campaigning organisation Campaign against Censorship believes freedom of expression must prevail. The references to abuse and exploitation must therefore be deleted.

Maranatha suggests that care needs to be taken in defining “abuse” and “improper exploitation” so that freedom of expression is not inhibited.

The National Secular Society recommends that the principles be amended to provide the minimum protection of religious beliefs required by law, while including agnosticism and atheism among the belief systems so protected.

ITV accepts and supports Ofcom’s proposed principles.

#### Additional/Alternative Principle

The BBC suggests the principles be expressed “in terms of the rights relating to religious belief as set out in... the Human Rights Convention to compliment our proposed rewriting of the Privacy principle.” It suggests the three principles be rewritten as one: “to ensure that broadcasters balance the right to freedom of thought, conscience and religion with their responsibility to protect the vulnerable and avoid unnecessary offence or likely harm.”

The BHA believes that the principles are potentially confusing and should be rewritten as one: “to ensure that broadcasters balance the right to freedom of thought, conscience and religion or belief both with the right to freedom of expression and with their responsibility to protect the vulnerable and avoid unnecessary offence or likely harm.”

MediaWise suggests the following: “to ensure that broadcasters exercise proper responsibility in the representation of religious beliefs and protect audience members from improper exploitation.”

#### Ofcom response

In drawing up the principles for this and all other sections we have turned to the wording of the Act. We appreciate the concerns of respondents who seek simplicity and those who want to ensure that the rights contained in the Convention are fully complied with in the interpretation of this section of the Act.

We have decided to retain the three principles, and not expand or consolidate them to include specific references to Articles 9 or 10, as they are the best expression of the principles underlying this section of the Broadcasting Code. The principles express the requirements of the Act.

The principles have been slightly reworded to bring them into line with the wording of the Act. The references to “abuse” and “improper exploitation”, which have caused concern amongst respondents, are drawn from section 319 (6)(a) and (b) of the Act. The references to “abusive treatment” and “improper exploitation” will, therefore, be retained.

The introduction to the Broadcasting Code emphasises the importance that is placed on freedom of expression. It is an overarching right which applies across the entirety of the Broadcasting Code. However to ensure that this is fully understood Article 10 will be referred to in the list of relevant legislation at the head of this section and all other sections. Also Article 9 will be added to the list for this section. Article 9 will be added as an Appendix to the Broadcasting Code with Articles 8, 10 and 14.

The National Secular Society is concerned that the Broadcasting Code should include agnosticism and atheism among the belief systems protected from abusive treatment. However section 319 (6) of the Act specifically provides that religious programmes do not involve any abusive treatment of “the religious views and beliefs of those belonging to a particular religion or religious denomination.” This therefore excludes, from this section of the Broadcasting Code, belief systems which are not religious in their nature.

### **III Principle**

#### **Principle 1**

To ensure that a proper degree of responsibility is exercised by broadcasters regarding the content of religious programmes.

#### **Responses to the Consultation**

The Muslim Council of Britain is concerned about the ambiguous wording of “a proper degree of responsibility”, saying the lack of clarity is likely to lead to an affront to many people for whom religion is a sensitive issue.

An individual asks what “a proper degree of responsibility” means.

#### **Ofcom response**

The wording of “a proper degree of responsibility” is a direct quote from 319(2)(e) of the Act. The rules in the Broadcasting Code demonstrate areas where Ofcom believe a proper degree of responsibility must be exercised.

#### **Principle 2 (now Principle 3)**

To ensure that the religious views and beliefs of a religion or religious denomination are not abused.

#### **Responses to the Consultation**

United Christian Broadcasting believes there should be a clearer formulation of the passage: “To ensure that the religious views and beliefs of a religion or religious denomination are not abused.”

The Catholic Bishops’ Conference of England and Wales would like to see the principle amended to read: “to ensure that there is no abusive treatment of the religious views and beliefs of a religion or religious denomination.”

The BHA believes the references to “religious views and beliefs” are ambiguous. They ask if the Broadcasting Code would be in breach of the HRA?

## Ofcom response

We have redrafted the principle to bring it in line with the wording of the Act.

As we have explained above, non religious views and beliefs are not the subject of this section of the Broadcasting Code. Section 319(6)(b) of the Act refers to the religious views and beliefs of those belonging to a particular religion or religious denomination.

## Principle 3 (now Principle 2)

To ensure that audience members are protected from improper exploitation.

## Responses to the Consultation

The Commercial Radio Companies Association believes that the word “improper” should be deleted.

The Chief Rabbi’s Office says that it is right that viewers and listeners should be protected from exploitation with regards to religious programming.

## Ofcom response

It should be noted that the second and third principles have simply been swapped around to reflect the Act. The wording of the principles has also been brought into line with the Act.

“Improper exploitation” is the wording of the Act. It is possible to have proper exploitation e.g. exploiting rights in a song or book. We are therefore retaining the word “improper”.

## IV Rules

### Draft Rule 4.1 (now Rule 4.1)

A proper degree of responsibility must be exercised by broadcasters regarding the content of religious programmes.

## Responses to the Consultation

The BHA thinks the draft Rule 4.1 repeats the law in section 319 of the Act. It suggests the following wording instead: “Broadcasters must seek to ensure that the beliefs of individuals and the doctrines, tenets and beliefs of a religion, religious denomination or belief system are not misrepresented or discriminated against in a religious programme as judged against generally accepted standards.”

The Church of England suggests that the Broadcasting Code should articulate that a proper degree of responsibility be held by broadcasters of religious programming. The guidance should note that this precaution should not perpetuate the myth that religion is dangerous; rather it is recognition that irresponsible treatment of religious material is potentially harmful as the material deals with people’s deepest convictions.

MediaWise suggests draft Rules 4.1 to 4.5 be combined as follows: “Representations of religious views and beliefs must be accurate and fair, and criticisms should not be abusive. Programmes that espouse a particular religious view must identify the religion or denomination to audiences from the outset, and must make clear whether its purpose is to seek recruits.”

ITV believes that Ofcom must redefine faith, as the definition would seem to define any set of belief systems qualifies as being “religious”.

The BBC believes draft Rule 4.1 does not protect beliefs which are not religious, nor distinguish between religious beliefs and beliefs in general, and suggests the revision: “Broadcasters must seek to ensure that the religious views and beliefs of an individual, a religion or a religious denomination are not misrepresented or discriminated against in a religious programme as judged against generally accepted standards.”

### **Ofcom response**

As we have explained elsewhere in this statement, it is necessary to reflect the wording of the principles (the wording of the Act) in distinct rules as the rules are binding whilst the principles express the objectives of the entire section. This rule therefore follows the wording of the Act. Therefore, only minor stylistic amendments to aid clarity have been made to this rule.

Ofcom’s regulation in this area is required by the Act, there is no presumption made by Ofcom that religion itself is harmful.

We agree with MediaWise that the intention of the draft Rule 4.3 (Fairness and Accuracy) is part of what we expect the new Rule 4.1 to achieve. We have therefore deleted the draft Rule 4.3.

ITV, BBC and the BHA’s comments about the meaning of “belief” are addressed in the revised principles. The definition of a Religious Programme (below) will also be amended to take this clarification into account.

#### *Meaning of a "religious programme":*

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

### **Responses to the Consultation**

The BHA believes the inclusive nature of the proposed definition of “religious programmes” is unclear and inconsistent with how the Broadcasting Code has been drafted. In its place the BHA suggests: “A religious programme is a programme which deals with the doctrines, tenets and beliefs of a religion, religious denomination or belief system as its central subject”.

### **Ofcom response**

The meaning has been amended to clarify that what is a religious programme is a programme which deals with matters of religion.

This section provides that, in setting standards in religious programmes to secure the standards objective, those standards should be designed to prevent any “abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.”

It is Ofcom’s view that if Parliament intended this section of the Broadcasting Code to cover standards relating to non religious beliefs or belief systems, it would have expressly referred to these. Accordingly Ofcom does not interpret references in the Act to the regulation of



religious programmes as including regulation of views and beliefs of those not belonging to a religion or religious denomination.

Broader references to religion and belief found separately in section 264 of the Act relate specifically to the requirements for public service programming as a whole, not standards requirements for religious programmes (as referred to in section 319 of the Act) and should not therefore be read across.

#### **Draft Rule 4.2 (now Rule 4.2)**

The religious views and beliefs of a religion or religious denomination must not be abused.

#### **Responses to the Consultation**

The Christian Institute agrees that religious beliefs should not be abused but is concerned that the proposals may restrict, rather than enhance, religious freedom.

The Catholic Bishops' Conference of England and Wales would like to have this amended to, "the religious views and beliefs of a religion or religious denomination must not be subject to abusive treatment."

The BHA states that "abused" as used is broad and unspecific. It suggests the draft rule be amended: "The doctrines, tenets and beliefs of a religion, religious denomination or belief system must not be maligned or reviled in any religious programme." If the BBC version were used, the following amended version is suggested: "Broadcasters must respect the right of individuals to freedom of religion or belief; including the right to worship, teach, practice and observe their religion or belief. Religious programmes, however, should not be used to denigrate other religions or beliefs."

The Commercial Radio Companies Association believes that for abuse of a belief to attract censure it should be deliberate and there should be the following amendment: "must not be deliberately abused."

An individual asks to what degree Christianity will be protected given that it is currently regularly attacked by the main terrestrial broadcasters.

The Church of England suggests the following wording: "The principles values and beliefs of a religion must not be subject to treatment which abuses those beliefs amongst the audience," stating that is more faithful to the wording of section 319 (6)(b) of the Act.

The National Secular Society suggests that Ofcom reword this to protect atheist beliefs as well, and suggests: "Programmes must not incite hatred of religions, religious dominations or belief systems," to coincide with the TWF Directive.

ITV would change the last words of the draft rule to "not be treated abusively."

Chrysalis does not know what "abuse" means here. The BBC also suggests that "abuse" is not a clear enough concept and provides the following revision:

"Broadcasters must respect the right of an individual to hold religious views and beliefs and to worship, teach, practice, and observe their religion or denomination. Religious practices, however, should not be used to denigrate other religious beliefs."

## Ofcom response

The wording has been amended to bring it closer to the wording of the Act.

General concerns about the word “abused” led to attempts to clarify it in suggestions from the Catholic Bishops’ Conference of England and Wales, the BBC, ITV, the BHA, and Chrysalis. These are noted. As we have reverted to the wording of the Act we are closest to the wording suggested by the Catholic Bishops’ Conference of England and Wales.

The National Secular Society’s views on expanding the draft rule to cover non-religious beliefs have been discussed above.

The Christian Institute is concerned that the draft rules restrict, rather than enhance religious freedom. This draft rule reflects the requirement of the Act; the Broadcasting Code itself is also drafted in light of the right to freedom of expression. (Reference to the European Convention on Human Rights is made at the beginning of this section.)

We cannot accept CRCA’s suggestion that the regulation should only seek to prevent deliberate abuse. The Act does not make that distinction. Nor can it be right that unintentional abuse should be acceptable.

This Broadcasting Code provides protection for the views and beliefs of those who hold religious views from abusive treatment. Therefore the issue of the subject of Christianity in religious programmes on the terrestrial channels is covered.

### Draft Rule 4.3 (deleted)

Descriptions of religious views and beliefs must be presented with due accuracy and fairness.

## Responses to the Consultation

The Commercial Radio Companies Association believes this draft rule should be deleted.

The Church of England approves the provision that faith be depicted accurately and fairly, and suggests that children’s spiritual development should not be impeded due to negative programming. The Church of England quotes a figure from the 2001 Census suggesting that approximately 80% of Britain’s population align themselves with a faith; religion is of enormous significance in national and international affairs.

ITV believes this is a requirement that may be very difficult or impossible to meet and that, in any event, it is already covered by draft Rules 4.1 and 4.2.

The BBC argues that there is no legal basis to require due accuracy here, which may in some cases be “beyond the understanding of the general audience”. It recommends the draft rule be deleted and replaced by detailed guidance, including guidance to raise programme makers’ awareness of religious sensitivities.

The Muslim Council of Britain recommends that the following wording be incorporated into the draft code under Rule 4.3: “Broadcasters should take advice from a group which is representative of the religion or religious denomination that is the subject of a programme.” The MCB says that this wording is similar to that in Section 7.2 of the ITC Programme Code, which appears to be omitted in the draft code. This omission is strongly resisted by the MCB.

The Chief Rabbi's Office says that the clauses requiring religious programming to be presented with "due fairness and accuracy" are especially significant.

New Humanist would like draft Rule 4.3 to add that "descriptions based on religious views and beliefs must be presented with due accuracy and fairness."

### **Ofcom response**

We note the approval for this draft rule by the Church of England and the Chief Rabbi's Office and the additional wording proposed by New Humanist. However we also note the concerns expressed by CRCA and also by ITV that it may be very difficult or impossible to comply such a rule. We note that the BBC are additionally concerned that accuracy should remain the province of the BBC governors.

Fairness and accuracy are specific terms that have a legal sense in the Act. The Act does not use these words in relation to the regulation of religious programmes. Therefore, having considered all these matters we consider that Rule 4.1 already covers this rule and therefore we have deleted draft Rule 4.3.

We note the suggestion from the MCB regarding seeking advice from a group which is representative of the religion or religious denomination that is the subject of the programme. This guidance on how to set about making programmes is not appropriate for inclusion in this section of the Broadcasting Code as a rule as it does not relate to the content of religious programmes but to the way they are made and is properly a matter for broadcasters.

### **Draft Rule 4.4 (now Rule 4.3)**

**A programme which espouses religious views or beliefs must make the identity of the religion and/or denomination clear to the audience.**

### **Responses to the Consultation**

The BHA is broadly happy with the rule as drafted in the draft code but would like a statement to be made at the start of a programme relating to the programme's content. It rejects the BBC's attempt to exclude broadcasts of church services and suggests the following version: "A religious programme which espouses the doctrines, tenets and beliefs of a particular religion, religious denomination or belief system must make the identity of that religion and/or denomination or belief system clear to the audience by an announcement at the start of the programme."

The Commercial Radio Companies Association believes this draft rule should be deleted and that transparency will only be needed where recruitment and funding is being sought.

The Catholic Bishops' Conference of England and Wales would like this to be amended to, "a programme which espouses religious views or beliefs must make the identity of the religion and/or denomination responsible for the programme clear to the audience."

The Church of England suggests this addition: "If the programme depicts an act of worship or other rite or ceremony, then the identity of the religion or denomination responsible must be made clear to the audience."

ITV is not sure what "espouses" mean and believes the draft rule could be clarified by the definition: "deals with the views or beliefs of a religion or religious denomination."

The BBC recommends the following as a clearer revision: “A programme which seeks to commend to viewers and listeners particular religious views or religious beliefs, and/or seek recruits, must make the identity of the religion(s) and/or religious denominations and the programme’s purpose clear to the audience.”

### **Ofcom response**

We have reworded this draft rule and combined it with Rule 4.5 to aid clarity and to meet some of the points made.

We have considered the BHA’s suggestion of a statement at the start of the programme. However we do not believe that adding this as a requirement would be proportionate. The rule requires that the identity of the religion or religious denomination is clear to the audience. There are many ways of achieving that and how this is best achieved is a matter in the first instance for the broadcaster.

We would hope that the religion/denomination espoused by a specialist religious channel’s programming is clear. However if it is not then the service would need to take particular steps to comply with this rule.

We do not agree with CRCA that transparency is only needed when recruiting or fund raising is involved. It is clear from research that viewers would like to know who is addressing them and why. If they do know, then offence is less likely to be given or taken. The audience is also unlikely to be misled into accepting views and beliefs as belonging to one religion where they actually belong to another.

We do not believe that limiting this rule simply to acts of worship or other rites or ceremonies is sufficient. It is important that the audience is aware of the identity of a religion in all religious programming that specifically deals with religious views or beliefs.

In the revision, the word “espouses” has been removed from the reworded rule.

As a general point we accept that dramas and entertainment shows may rely on concealing the identity of a religion and if necessary guidance will make it clear that this rule does not apply in such circumstances.

### **Draft Rule 4.5 (now Rule 4.4)**

If a programme’s underlying purpose is to convey religious views or beliefs, or to seek recruits, then the broadcaster must make that purpose clear to the audience, if it is not already evident.

### **Responses to the Consultation**

The BHA considers this draft rule to overlap with draft Rule 4.4 and suggests the following: “A religious programme which seeks to convert or seek recruits from viewers or listeners to a particular religion, religious denomination or belief system must make this purpose and the identity of that religion and/or denomination or belief system clear to the audience by an announcement at the start of the programme.”

An individual believes that religious programmes should be allowed to recruit, but only after the watershed.

The Catholic Bishops’ Conference of England and Wales would like the final phrase to be deleted so that it reads, “if a programme’s underlying purpose is to convey religious views or

beliefs, or to seek recruits, then the broadcaster must make that purpose clear to the audience.”

ITV wants some clarification with regard to “underlying purpose.”

The BBC does not understand how Ofcom will determine if a programme’s purpose is to seek recruits and thinks that this may prove too restrictive; it suggests that religious material does not need special labelling and suggests this draft rule be combined with draft Rule 4.4.

### **Ofcom response**

Research indicates that the audience is concerned that they know who is addressing them and why. We have therefore explained that this is about preventing the promotion of religious views by stealth. Unless this is the case it should not therefore concern any bona fide religious organisations, programme makers and broadcasters.

It is clear from responses to question 7 of the RIA and research commissioned by Ofcom that the majority of opinion, is either against recruitment or only offers qualified support, usually in favour of recruiting on specialist religious channels only. We have amended this draft rule and make clear that the status quo will remain: recruiting will only be allowed on radio and specialist religious television services. We have also offered an explanation of recruitment. See below for further details.

### **Draft Rule 4.4 (now Rule 4.5 relating to seeking recruits, question 7d of RIA below)**

**Question 7d of the RIA:** *Should religious programmes on non specialist television services be allowed to recruit?*

### **Responses to the Consultation**

#### **Should be able to recruit**

A Member of the UN Association Religious Advisory Committee requests that on the grounds of freedom of conscience and expression the right of programme makers for non specialist channels to recruit should perhaps be tentatively supported, provided the exposition of the holy texts is of a well informed and accurate nature.

An individual says that recruitment should be allowed “as long as “life altering” considerations are in place.” A pastor believes the expression “recruit” is not wholly descriptive of many religious broadcasters who would rather use the phrase “invite”. An individual says that recruitment should be restricted until after 22.00.

Maranatha does not see a reason why religious programmes should not recruit. The Evangelical Alliance believes that only specialist religious channels should be allowed to recruit.

United Christian Broadcasting believes this should apply to both general and specialist religious channels but there should be a higher standard of care for the protection of audience susceptibilities on general non religious channels.

The CBC believes that only specialist religious channels should be able to recruit on air but that programmes on non specialist television services should be allowed to advise viewers that more information is available on certain specialist religious websites, as well as religious TV and radio channels.

The Church of Ireland Broadcasting Committee believes the protections under rules 4.5 and 4.6 can regulate this, but advises caution. The Churches' Media Council does not see the need for a rule prohibiting recruitment but also suggests caution.

The BBC thinks recruitment is acceptable, as people are exposed to other commercial pressures and should have the freedom to make up their own minds.

The Church of England points out that there has been no negative evidence with respect to recruiting on the radio, but warns that TV is a very different media. It suggested, however, that it might be appropriate for information, help line numbers and web site links to be broadcast on TV and that it is appropriate to have different rules for television and radio.

### **Should not recruit**

Six individuals believe that religious programmes should not be allowed to recruit directly. Another individual states that this question relies upon what is meant by "recruit". One individual says it is not the business of broadcasting to facilitate recruitment to any kind of specific activity.

The Catholic Bishops' Conference of England and Wales believes that recruitment should be forbidden.

S4C believes that recruitment should not be allowed.

Charity RNIB believes that it is essential to maintain the rule in order to protect vulnerable people from potential exploitation. Many blind and partially sighted people find it more difficult to follow TV programmes and could find the messages confusing.

The General Assembly of Unitarian and Free Churches would want to maintain the present position of prohibiting recruitment in this area, although raises an issue about the definition of "recruit".

One individual and the BHA think recruitment should be banned except on specialist religious channels. The BHA strongly believes that religious programmes are not suitable other than on/for inclusion in specialist religious channels. A new rule should state: "No religious programme which seeks to convert or seek recruits from viewers or listeners to a particular religion, religious denomination or belief system shall be broadcast on any channel that is not a specialist religious channel."

New Humanist says that Ofcom should question whether it would let the likes of political parties and pressure groups recruit in the same way.

Channel 4 and Five, and ITV believe that no recruitment should be allowed.

United Christian Broadcasting think that the restriction ought to apply across the board to both religious and general channels, with greater protection for the audience regarding the general non religious channels.

MediaWise suggests a differentiation between direct recruitment and pointing audiences towards further information, with focus on the latter.

The Secular Society believes that the market for religious programming is in decline, that allowing recruitment would breach separation between programmes and advertising, and advocates a total ban on recruitment.

## Ofcom response

We have taken note of the responses on all sides of this debate. This issue was also considered in the qualitative research mentioned above.

The majority of respondents are uncomfortable about recruitment on television programmes, either believing that recruitment should not be permitted at all (e.g. ITV, Channel 4, Five and S4C) or offering only qualified support (eg the Christian Broadcasting Council, Church of Ireland Broadcasting Committee). The Church of England warns that, whilst there has been no negative evidence with radio, television is a very different medium.

The BBC considers recruitment acceptable but, from the context of the BBC's response, it would seem that the BBC read a prohibition on recruitment to effectively mean a prohibition on worship programmes such as Songs of Praise. It should be noted that Songs of Praise and other such programmes would not be prohibited under this rule as they are, effectively, acts of worship which express Christian belief and do not include direct appeals to the television audience.

In the qualitative research, the reference to recruiting generated very strong feelings. All religious focus groups including the Christian groups felt that recruitment in itself can be patronising, since it normally occurred in Christian faiths. Such recruitment would therefore be seen as a re-establishment of older and traditional religious values. Conversely, the participants also associated this kind of behaviour with the extremes of religious belief and reacted very negatively. They commented that television is so powerful that they felt that there was a significant risk that it would exploit the vulnerable, whatever the intentions of the programme makers in relation to recruiting. Participants felt that it would open the floodgates to charismatic but untrustworthy presenters.

On the basis of the research and consultation responses, we have decided that the status quo should be maintained - that is, that recruitment by religious programmes should continue to be permitted on radio and on specialist religious television services. It should not be permitted on other television services, where viewers are more likely to come across recruitment unawares.

### **Draft Rule 4.6 (now Rule 4.6)**

**Programmes may not improperly exploit the audience by preying on their susceptibilities.**

### **Responses to the Consultation**

The Muslim Council of Britain voices concerns about ambiguous wording of “improperly exploit”, saying the lack of clarity is likely to lead to an affront to many people for whom religion is a sensitive issue.

The Catholic Bishops' Conference of England and Wales would like this to be amended so it reads, “programmes must not improperly exploit the audience by preying on their susceptibilities or fears.”

The BHA believes this draft rule is confusing because it varies the wording of the law and is therefore unnecessary. The Commercial Radio Companies Association reads this as saying that broadcasters can exploit an audience. MediaWise suggests that the wording begs the question and needs explaining. The BBC suggests that this draft rule be deleted as it is covered in the revision of Rule 4.4.

ITV contends that it is the “vulnerable, rather than the susceptible, who may be thought to need protection.”

### **Ofcom response**

This rule is required because it creates a binding rule based on the wording of the Act. We have returned to the wording of the Act and therefore we have continued to include the phrase “improperly exploit” as it is in the Act.

ITV’s point about the susceptible and vulnerable is noted. However, our research demonstrates that members of the public consider that even normally non-vulnerable people can become vulnerable and susceptible at certain times, after major life-events, for example.

### **Draft Rule 4.7 (now Rule 4.7)**

Programmes that contain claims that a living person (or group) has special powers or abilities must be treated with due objectivity and may not be broadcast at a time when significant numbers of children may be watching or when children are particularly likely to be listening.

### **Responses to the Consultation**

A Member of the UN Association Religious Advisory Council believes that claims about miracles and healing should be treated with great care and a series of tests and verification should be put in place before any such claims are broadcast.

The Church of England notes that at present the resurrection of Christ could fall foul of this draft rule. That is presumably not the intent and the wording should be altered.

The Catholic Bishops’ Conference of England and Wales welcomes this draft rule.

The BHA believes that the ideas of “legitimate investigation” and “incapable of being substantiated” should not be lost. The following wording is suggested: “Religious programmes must not contain claims by, or about, people or groups of people, living or deceased, or about religious relics or artefacts suggesting they have special powers or abilities, unless these claims are in the context of objective investigation or discussion or they have been substantiated.” Also, it does not believe there is need for the special reference to children; the idea that religious claims may be questioned is healthy.

The BBC believes this rule should make specific reference to religious programmes and suggests that it may be too protective and unachievable, and requests a clearer definition of “special powers and abilities”. ITV also believes this draft rule to be over-protective. The Commercial Radio Companies Association believes that some things should be left to common sense. MediaWise suggests that this draft rule should “make reference to editorial discretion as to scheduling rather than simply insisting that children must be protected from untested claims.”

An individual says that this draft rule could be a devastating blow to Christian programming and that Jesus should be regarded as a “living person”.

The British Union Conference of Seventh Day Adventists believes that the wording may unintentionally exclude Jesus Christ, and that simpler wording such as that used in the Act may be more appropriate.



Chrysalis suggests that this draft rule asks broadcasters to treat a subjective issue objectively, which will doubtless cause problems.

**Question 7e:** *Question 7e of the consultation document (which refers to draft Rule 4.7 above provides as follows:  
Does the final rule in this section provide sufficient protection for children and susceptible audience members or is it, conversely, too protective?*

## Responses to the Consultation

### Sufficient protection

Some seven individuals believe the rule provides sufficient protection. One individual agrees but says that this should apply to all religions and cults. Ligali, Channel 4 and Five say that this is adequate protection.

Charity RNIB says there is the potential for vulnerable people to become increasingly confused in the multi channel environment. It is therefore essential to provide sufficient protection for anyone who could be susceptible.

The Church of England welcomes the draft rule given the point about new religious movements not being subject to “peer review and academic scrutiny” and not being “accountable to other bodies”. The proposed rule should, they believe, give adequate protection to children and young people.

One individual agrees that it provides adequate protection for children but argues that it should also cover adults; extreme claims, religious or otherwise, should be avoided.

The Church of Ireland Broadcasting Committee supports embedded content labelling. Maranatha says that this depends on what is meant by “special powers and abilities”. People who have special gifts should be able to exercise them.

The Churches’ Media Council believes this provides suitable protection from belief systems which have not been subjected to peer review.

The Catholic Bishops’ Conference of England and Wales believes that the proposed draft rule is well balanced.

S4C believes the draft rule is appropriate and necessary.

### Overly protective

Campaigning organisation Campaign against Censorship says parents and guardians should control children’s religious activity, not an “authoritarian nanny state”.

The Evangelical Alliance says that children already understand that prayer can lead to healing and that “Christian and religious broadcasters should be able to discuss matters of special powers and abilities in their programmes but in ways that explain these occurrences to children.” The CBC also believes that religious broadcasters should be able to discuss matters of special powers and abilities in their programmes but again in ways that explain these occurrences to children.

A pastor feels that there is a danger that the Broadcasting Code would be open to a wide range of interpretations over what is “preying on susceptibilities” and “claims of special powers or abilities”, and feels these statements are too protective.

The National Secular Society believes “due objectivity” is insufficiently precise, and suggests wording be extended to include adult protection; it recommends that Rule 4.7 be worded: “Programmes that contain unproven assertions that a living person (or group) has special powers must be preceded by a clear statement that the assertions have not been proven, and may not be broadcast at a time when significant numbers of children may be watching or when children are particularly likely to be listening.”

ITV and the BBC suggest this draft rule is too protective of children.

### **Ofcom response**

We have taken note of the arguments made on both sides of this debate. We have not changed this rule (except to make the drafting clearer).

Guidance will clarify that this does not include founders of recognised religions.

It is not necessary to make special reference to religious programmes as the text at the head of this section makes it clear that this section deals with religious programmes.

This rule draws on provisions in the legacy ITC and RA Codes. The purpose is primarily to protect younger viewers and listeners from claims made by or on behalf of a particular individual about which younger viewers and listeners may not yet be in a position to make a mature judgment. We accept that parents and carers have the right to control what their children watch and listen to but we also accept that before the watershed adults expect broadcasters to exercise restraint in what children see and what children could hear on radio, at times when they are particularly likely to be listening. The rule has been drafted so that programmes containing such material may be broadcast in school time.

After consideration, we do not accept that it is overprotective or conversely that it needs to be tightened further. There is no intention to prevent adults watching and/or listening to such claims. They must however be treated with due objectivity, that is, the level of objectivity due to the subject matter, service, programme, likely audience etc. But at the same time section 319 (6)(a) of the Act requires us to set standards so that programmes do not involve any improper exploitation of the susceptibilities of the audience. We believe that this is one area where to expose children to such claims could add up to improper exploitation. It is on that basis that the rule has been created.

### **Questions**

*Question 7c of the RIA asks “Which of the options [see below] regarding appealing for funds for religious programmes and/or services...should Ofcom include and why?”*

### **Responses to the Consultation**

Option one - maintain the present situation whereby radio services and programmes may appeal for funds but television services and programmes may not.

Charity RNIB says that, in order to protect people who may not fully understand the nature of the programming because they cannot fully follow it, option one should continue.

BHA is strongly opposed to allowing religions – or non religious belief systems – to appeal for funds on TV because of the risk that largely disreputable religious organisations of the kind found in the US would make their way to the UK to exploit the situation.

The Catholic Bishops' Conference of England and Wales believes that, by allowing fundraising channels to be established that are based mainly on donations, the Broadcasting Code will encourage the "hard sell" attitude. Hence, the Conference supports the present rules. However, if these rules are lifted it would prefer option two, so long as a clear distinction is made between advertising and direct appeals.

An individual believes that option one is best. Another is uneasy about the raising of funds by appeals on-air. A third supports option one, as the current situation seems to have worked satisfactorily. A fourth suggests that no funds for religious or political groups be appealed for at all.

The National Secular Society thinks the present situation is fair and recommends option one, provided funds are used by charities for the benefit of disadvantaged third parties and not for broadcasters or religious bodies themselves. An individual is uncomfortable with religious organisations fundraising through media and prefers option one.

The BBC believes the prohibition on religious services and programmes appealing for funds should remain, as viewer susceptibility will be higher given the nature of this programming.

**Option two - retain the prohibition on religious programmes on television appealing for funds but lift it for specific religious television services.**

Channel 4 and Five would support the second option as long as there was adequate policing of fundraising to enable services to compete internationally. S4C favours option two but believes that people who subscribe to a religious service should not be offended by an appeal for funds.

**Option three - remove the prohibition on appealing for funds on religious programmes and services.**

Four individuals believe that option three is the best option. A pastor believes that specialist religious broadcasters should have the freedom to appeal for funds for religious programmes and/or services, and supports the removal of restrictions.

The CBC would choose option three but would also like to see the end of the prohibition on appealing for funds on all specialist religious services, whilst maintaining the bar on individual programmes. This is in keeping with the typical way churches raise funds in the UK.

Campaign group Campaign against Censorship says that appeals for funds should be allowed.

The Evangelical Alliance believes that option three is the best option but that a fourth option should be considered for the long term financial health of UK based religious radio and TV. This would be to remove the prohibition on appealing for funds on all specialist religious services, while maintaining the restriction on appealing for funds for individual programmes on PSB channels prior to 31 December 2012.

The Church of Ireland Broadcasting Committee would support option three, as that would enable a more consistent, creative approach to religious programming. The Church of England has no objection to the raising of funds for charities but asks that money raised

should not go to funding programmes or services. The Church of England suggests this because fundraising often creates more revenue than the programming requires and channels become self-perpetuating fundraising vehicles. The Church of England says the time is not right to liberalise religious fundraising. Charity fundraising ought to be carefully regulated by a committee, along the lines of Appeals Advisory Committees, so as to ensure suitability, accountability and transparency.

Maranatha believes that the ability to raise funds is important for specialist Christian broadcasters and suggests the restrictions put these at risk of closure. Campaign Group Centre for Justice and Liberty believes that some specialist Christian/religious channels need to be able to ask for audience support due to competition and advertising limitations.

ITV does not see a good reason for support of this and does not feel that religious programming should be dealt with differently. The Churches' Media Council agrees that all forms of broadcasting should be treated in the same way and sees no reason to treat appeals for funds from religious programmes much differently from other charitable appeals.

### **General comments**

The National Secular Society suggests care be taken with regard to religious fundraising, as self regulation in the US led to “televangelist scandals”.

An individual prefers option one, option three, or a total ban. “My worry is that monies could be donated which fund terrorist activities, and I am surprised this has not been considered.” Another individual believes the funding of religious services needs to be looked into more thoroughly.

BHA sees the consultation document on this subject as confusing and unhelpful and as placing exaggerated importance on a few additions to the existing channels and on economic gains from more shoestring channels.

MediaWise believes the consultation document on this subject does not offer the “full range of options” and suggests the option of prohibiting religious programmes on radio from appealing for funds.

### **Ofcom response**

The consultation paper asked (in the context of the religion section of the Broadcasting Code) whether permission to appeal for funds to support programmes and/or services should be extended to religious programmes on all television services, or to specialist religious television services only, or not extended at all. In addition to the Broadcasting Code consultation, we commissioned detailed qualitative research.

In the Regulatory Impact Assessment (RIA) we also asked for comments on whether respondents thought all television services should be allowed to appeal for funds on air to support services or programmes, as is currently the case for radio. A specific question, 13g, was asked in the RIA: should the present prohibition be kept, should it be removed or should it be altered?

ITV, RNIB and the National Secular Society did not support appealing for money and Channel 4 and Five and the BBC all said that such an issue required a full consultation in itself as it could significantly change the landscape for PSBs by bringing funding mechanisms nearer the American model. The Community Media Association believed that community or local TV should be permitted to appeal to the relevant community as did ISBA (Incorporated Society of British Advertisers).

The only substantive respondents who were in favour of allowing appeals for funds on air were approaching the matter from the perspective of support for religious services. The Evangelical Alliance, Maranatha, and the Christian Broadcasting Council believed specialised religious services should be allowed to make such appeals.

The law does not require (nor has it in the past required) television and radio to be treated differently in respect of fundraising. However, the Act provides for standards to be applied to particular descriptions of programmes or television and radio services as appears appropriate for securing the standards objectives. Ofcom is, therefore, permitted to set different standards for television and radio if it thinks it is appropriate to do so.

As the broadcasters acknowledge in their response, the entire issue of the future funding of television is of major importance. As part of the exploration of this subject we intend to undertake a production funding review. We will also undertake a consultation on community television, planned for later this year, which will raise the funding issue for community television services. This is an issue which we believe cannot be approached in a piecemeal fashion. Any change will affect the entire ecology of television funding. Therefore, we have accepted the weight of consultation responses on this issue and will retain the present prohibition on appealing for funds to fund services or programmes on television.

We explained in the RIA that the result of the consultation on this question “has an essential bearing” on the more specific question we asked regarding allowing fundraising on television by religious programmes and/or specialist religious services. In other words, if respondents were opposed to lifting the prohibition on television services and programmes it was improbable that we would make an exemption for religious services or programmes. We noted that “responses [to the more general question] ...will have an impact upon the outcome”.

We now turn to the more specific question of appealing for donations to support specialised religious television services or religious programmes.

The qualitative research demonstrated strong resistance to the idea of religious programmes on television appealing for funds for programmes and services. Some participants questioned why any community would want to raise money for itself rather than for a charity. Others were suspicious about “con men” and asked how Ofcom would ensure that the cause was legitimate. Participants felt television was a particularly powerful medium. Some felt there might be an argument for allowing appeals on specialist television services where viewers had “opted in” i.e. chosen to watch the Channel by subscribing to it. Specifically, however, there was concern that permitting such appeals for funding could lead to the “improper exploitation of any susceptibilities of the audience for such a programme” (section 319 (6)(a) of the Act).

Taking into account:

- the response to the wider question of allowing television broadcasters to appeal for funds to support programmes and services (see Commercial References Question 13g and RIA);
- the concerns expressed in the consultation on the more specific question regarding specialist religious services and religious programmes; and
- the concerns expressed in the qualitative research;

we believe that it is a proportionate and evidenced based conclusion to prohibit appealing for funds on television to support religious programmes and specialised religious services.

The status quo will also remain since, as indicated above, this issue is part of a wider consideration of whether broadcasters can appeal on-air for funds. This will form part of any possible future funding of production consultation.

This prohibition will be included in Section Ten: Commercial and Other Matters (Rule 10.15 and 10.16). There will also be a cross reference in Section Four: Religion.

## **V Proposed New Rules**

### **Responses to the Consultation**

An individual is concerned that Parliament did not anticipate the possible religious implications of programmes of a largely or ostensibly non religious nature. This individual suggests adding a further rule or gloss to Sections Two: Harm and Offence and Three: Crime to the effect that in relation to any religious references or material these sections will be interpreted in the light of Section Four: Religion.

This person is also concerned that draft Rules 4.2 to 4.5 are confined to the treatment of religious “views and beliefs” and do not specifically mention institutions, figures or practices. A further rule should be added to Section Four: Religion to the effect that “views and beliefs” will be interpreted to encompass by implication religious institutions, practices, and also religious figures regarded with particular reverence or respect. Also, “matters of religion and belief” could be more appropriately reworded as “matters of religion and religious belief.” Furthermore, the term “abuse” calls for interpretation and could be clarified by means of an additional rule within Section Four: Religion, to ensure that this covers material involving denigration of, or insult to, religious views irrespective of whether this was intended by the broadcasters.

#### **Ofcom response**

It is certainly the case that complaints regarding references to religion that are not in religious programmes will be looked at in terms of other sections of the Broadcasting Code e.g. Harm and Offence. However, apart from where it related to offensive material (Rule 2.3), we see no need specifically to mention religion in other sections.

We accept that “religious views and beliefs” may in certain circumstances relate to religious institutions, practices, and religious figures regarded with particular reverence or respect. We would interpret this on a case-by-case basis. We have decided that wherever possible we will stick closely to the wording of the Act. We have already explained that we do not believe that “intention” is a necessary element of “abusive treatment”.