

## Annex 1

# Ofcom's Consultation Principles

Ofcom has published the following seven principles that it will follow for each written consultation:

### **Before the consultation**

1. Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### **During the consultation**

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow 10 weeks for responses, other than on dispute resolution.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### **After the consultation**

7. We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Annex 2

# Consultation Response Cover Sheet

1. In the interests of transparency, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.
2. We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
3. The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to confirm on the response cover sheet that Ofcom can publish their responses upon receipt.
4. We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
5. Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

Name/contact details/  
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and all intellectual property rights in the response vest with Ofcom. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Ofcom can publish my response: on receipt  once the consultation ends

Name

Signed (if hard copy)

## Annex 3

# Consultation Questions

## Section 3

### Ofcom Broadcasting Code Introduction

Question 3a: Does the introduction appropriately set out the purpose and background of the Code and does it achieve the right balance between giving broadcasters creative and editorial freedom while protecting listeners and viewers?

Question 3b: Should there be one Code or more than one Code? (Please see the RIA in section 14 of this consultation for further information.)

Question 3c: Is the approach suggested by Ofcom the best approach to the proposed new Code/s? If not, is there a better approach and, if so, what? (Please see the RIA in section 14 of this consultation for further information.)

Question 3d: Should the Code differentiate between different types of services with different rules for different services, or does the proposed approach allow sufficient latitude for services to interpret the rules appropriately for their audiences? (Please see the RIA in section 14 of this consultation for further information.)

## Section 4

### Protecting the Under Eighteens

Question 4a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 4b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 4c: Are the proposed definitions of children and young persons appropriate?

Question 4d: Do we need rules regarding violence and dangerous behaviour, smoking, drug taking etc as proposed in the Code or are such matters already covered by other rules?

Question 4e: Which of the options described in the RIA regarding the watershed on premium subscription services is the best option and why? (If a new place is proposed for the watershed, what is it, and why?) What technical and other protections can broadcasters and platform operators put in place to protect children?

Question 4f: Which of the options described in the RIA on the scheduling of programmes regarding the paranormal is the best option and why?

Question 4g: Should cash prizes be specifically forbidden in children's programmes?

Question 4h: Should there be rules linking the scheduling of films to the BBFC classifications?

## **Section 5**

### **Harm and Offence**

Question 5a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 5b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 5c: Should a rule on hypnosis be included and if so what evidence of harm or potential harm is there regarding the use of hypnosis on television or radio audiences?

Question 5d: Is the inclusion of R18 and R18 standard material compatible with the TWF Directive which requires that nothing is included in licence services which might seriously impair the physical, mental or moral development of minors?

Question 5e: If the answer to 5d is yes, then are there technical and other protections that broadcasters and platform operators can put in place to protect the under eighteens, who should not, and adults, who may not wish to, access R18 and R18 standard material? (the Act section 319(2)(a)(f) and 319(4))

Question 5f: Which of the options described in the RIA regarding R18s, and R18 standard material is the best option, and why?

Question 5g: Should the restrictions in place regarding transmitting 'adult' sex material on certain premium subscription services, PPV and PPN services be changed, and if so what restrictions should be in place, and on which services?

Question 5h: Should there be a prohibition on the transmission of films, videos and DVDs refused a BBFC certificate. If not should there be any rule and if so what rule?

Question 5i: Can a lesser level of technical intervention achieve the same protection for those with photosensitive epilepsy?

## **Section 6**

### **Crime**

Question 6a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 6b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

## **Section 7**

### **Religion**

Question 7a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 7b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 7c: Which of the options regarding appealing for funds for religious programmes and/or services described in the RIA, section 14 of this consultation should Ofcom include in the Code and why?

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

Question 7e: Does the final rule in this section provide sufficient protection for children and susceptible audience members or is it, conversely, too protective?

## **Section 8**

### **Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions**

Question 8a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 8b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 8c: Does this section encourage imaginative and challenging programming on controversial matters?

Question 8d: In particular do rules 5.11, 5.12 and 5.13 and the associated meanings of “personal view” and “authored” programmes give broadcasters enough flexibility to produce challenging programmes while ensuring that the Act is complied with?

Question 8e: Would appropriate labelling help the UK audience understand the nature of retransmitted news services (not primarily intended for the UK market)?

## **Section 9**

### **Election and Referendum Reporting**

Question 9a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 9b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

## **Section 10**

### **Fairness**

Question 10a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 10b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

## **Section 11**

### **Privacy**

Question 11a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 11b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

## **Section 12**

### **Sponsorship**

Question 12a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 12b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 12c: Should the current rules for television sponsorship be changed to allow non-promotional references to the sponsor in the programme they are sponsoring?

Question 12d: Should the rule restricting the content of sponsorship credits on television be changed and is the proposed rule (9.17) in the draft Code appropriate?

Question 12e: Should Ofcom remove the 5 second limit on sponsor references in programme trailers, and is it appropriate to replace it with a requirement that sponsor references in trailers remain brief and secondary?

Question 12f: Does the Code require a rule that contains more detailed description of what is an acceptable sponsorship message than that proposed in the Code (rules 9.8 and 9.9)?

Question 12g: Should the restriction on the length of sponsorship credits for ITV, Channels 4 and Five be removed?

Question 12h: Are the rules relating to credits (9.8 to 9.18) in the proposed Code sufficient to ensure transparency and maintain separation?

Question 12i: Is it appropriate to retain the prohibition on the sponsorship of a whole TV channel or radio station?

Question 12j: How can the rules on sponsorship by betting and gaming companies best be consolidated for radio and television?

### **Section 13**

#### **Commercial References and Other Matters**

Question 13a: Are the principles, rules and meanings necessary, consistent, proportionate and achievable? If not, can the wording be improved and if so how?

Question 13b: Are there any principles, rules or meaning we have not put here which would achieve the intentions of the Communications Act and other applicable legislation and be necessary, consistent, proportionate and achievable?

Question 13c: Should there be a rule for both radio and television relating to how viewer and listener competitions are conducted, and should there be a rule that limits the use of competitions with brand mentions to within programmes?

Question 13d: Are the rules for charity appeals appropriate and should they be extended to include radio?

Question 13e: Is the provision for community service announcements appropriate and should it be extended to include radio?

Question 13f: Should broadcasters be allowed to promote programme related material wherever that is relevant and editorially justified in the programme?

Question 13g: Should the rule prohibiting television services appealing for funds to make programmes and fund services be removed, kept or altered? If altered – then how should it be altered? Please see the RIA, section 14 of this consultation for further information.

Question 13h: If the rule referred to in 13g is removed, will this provide a complimentary mechanism for raising funds or will it be a substitute mechanism?

Question 13i: Given the substantial market share held by some channels, would this have a distortive effect, in which case should Ofcom use its competition powers?

Question 13j: Should there be rules regarding merchandising or not? And if so what rules? Please see the RIA in section 14 of this consultation for relevant arguments.

### **Section 14**

#### **Regulatory Impact Assessment**

Question 14a: Has this RIA correctly identified the significant changes (as described in the opening paragraph of the RIA) made in this consultation paper. If not, what other changes are significant, and why?

Question 14b: Do you disagree with the assessment of benefits and disadvantages drawn up in this RIA and, if so, how would you suggest it should be altered?

Question 14c: Can you assist with information which will help us quantify the increased costs or savings of the various options in this RIA?

#### Annex 4

## **Communications Act 2003, Section 3(1)(a) and (b), (2)(e) and (f), 4(a)(b)(g)(h)(j) and (k) 319, 320, 321(1)(a) and (b), 325(1) and 326 Broadcasting Act 1996, Section 107**

### **3 General duties of OFCOM**

- (1) It shall be the principal duty of OFCOM, in carrying out their functions-
- (a) to further the interests of citizens in relation to communications matters; and
  - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- (2) The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following-
- (e) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services;
  - (f) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from both-
    - (i) unfair treatment in programmes included in such services; and
    - (ii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.
- (4) OFCOM must also have regard, in performing those duties, to such of the following as appear to them to be relevant in the circumstances-
- (a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
  - (b) the desirability of promoting competition in relevant markets;
  - (g) the need to secure that the application in the case of television and radio services of standards falling within subsection (2)(e) and (f) is in the manner that best guarantees an appropriate level of freedom of expression;
  - (h) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;
  - (j) the desirability of preventing crime and disorder;
  - (k) the opinions of consumers in relevant markets and of members of the public generally;

## ***Programme and fairness standards for television and radio***

### **319 OFCOM's standards Code**

- (1) It shall be the duty of OFCOM to set, and from time to time to review and revise, such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure the standards objectives.
- (2) The standards objectives are-
  - (a) that persons under the age of eighteen are protected;
  - (b) that material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television and radio services;
  - (c) that news included in television and radio services is presented with due impartiality and that the impartiality requirements of section 320 are complied with;
  - (d) that news included in television and radio services is reported with due accuracy;
  - (e) that the proper degree of responsibility is exercised with respect to the content of programmes which are religious programmes;
  - (f) that generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material;
  - (g) that advertising that contravenes the prohibition on political advertising set out in section 321(2) is not included in television or radio services;
  - (h) that the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented;
  - (i) that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with;
  - (j) that the unsuitable sponsorship of programmes included in television and radio services is prevented;
  - (k) that there is no undue discrimination between advertisers who seek to have advertisements included in television and radio services; and
  - (l) that there is no use of techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds, without their being aware, or fully aware, of what has occurred.
- (3) The standards set by OFCOM under this section must be contained in one or more Codes.
- (4) In setting or revising any standards under this section, OFCOM must have regard, in particular and to such extent as appears to them to be relevant to the securing of the standards objectives, to each of the following matters-

- (a) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description;
  - (b) the likely size and composition of the potential audience for programmes included in television and radio services generally, or in television and radio services of a particular description;
  - (c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience;
  - (d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content;
  - (e) the desirability of securing that the content of services identifies when there is a change affecting the nature of a service that is being watched or listened to and, in particular, a change that is relevant to the application of the standards set under this section; and
  - (f) the desirability of maintaining the independence of editorial control over programme content.
- (5) OFCOM must ensure that the standards from time to time in force under this section include-
- (a) minimum standards applicable to all programmes included in television and radio services; and
  - (b) such other standards applicable to particular descriptions of programmes, or of television and radio services, as appear to them appropriate for securing the standards objectives.
- (6) Standards set to secure the standards objective specified in subsection (2)(e) shall, in particular, contain provision designed to secure that religious programmes do not involve-
- (a) any improper exploitation of any susceptibilities of the audience for such a programme; or
  - (b) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.
- (7) In setting standards under this section, OFCOM must take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this section.
- (8) In this section "news" means news in whatever form it is included in a service.

### **320 Special impartiality requirements**

(1) The requirements of this section are-

- (a) the exclusion, in the case of television and radio services (other than a restricted service within the meaning of section 245), from programmes included in any of those services of all expressions of the views or opinions of the person providing the service on any of the matters mentioned in subsection (2);
- (b) the preservation, in the case of every television programme service, teletext service, national radio service and national digital sound programme service, of due impartiality, on the part of the person providing the service, as respects all of those matters;
- (c) the prevention, in the case of every local radio service, local digital sound programme service or radio licensable content service, of the giving of undue prominence in the programmes included in the service to the views and opinions of particular persons or bodies on any of those matters.

(2) Those matters are-

- (a) matters of political or industrial controversy; and
- (b) matters relating to current public policy.

(3) Subsection (1)(a) does not require-

- (a) the exclusion from television programmes of views or opinions relating to the provision of programme services; or
- (b) the exclusion from radio programmes of views or opinions relating to the provision of programme services.

(4) For the purposes of this section-

- (a) the requirement specified in subsection (1)(b) is one that (subject to any rules under subsection (5)) may be satisfied by being satisfied in relation to a series of programmes taken as a whole;
- (b) the requirement specified in subsection (1)(c) is one that needs to be satisfied only in relation to all the programmes included in the service in question, taken as a whole.

(5) OFCOM's standards Code shall contain provision setting out the rules to be observed in connection with the following matters-

- (a) the application of the requirement specified in subsection (1)(b);
- (b) the determination of what, in relation to that requirement, constitutes a series of programmes for the purposes of subsection (4)(a);
- (c) the application of the requirement in subsection (1)(c).

(6) Any provision made for the purposes of subsection (5)(a) must, in particular, take account of the need to ensure the preservation of impartiality in relation to the following matters (taking each matter separately)-

(a) matters of major political or industrial controversy, and

(b) major matters relating to current public policy, as well as of the need to ensure that the requirement specified in subsection (1)(b) is satisfied generally in relation to a series of programmes taken as a whole.

(7) In this section "national radio service" and "local radio service" mean, respectively, a sound broadcasting service which is a national service within the meaning of section 245 and a sound broadcasting service which is a local service within the meaning of that section

### **321 Objectives for advertisements and sponsorship**

(1) Standards set by OFCOM to secure the objectives mentioned in section 319(2)(a) and (g) to (j)-

(a) must include general provision governing standards and practice in advertising and in the sponsoring of programmes; and

(b) may include provision prohibiting advertisements and forms and methods of advertising or sponsorship (whether generally or in particular circumstances).

### **325 Observance of standards Code**

(1) The regulatory regime for every programme service licensed by a Broadcasting Act licence includes conditions for securing-

(a) that standards set under section 319 are observed in the provision of that service; and

(b) that procedures for the handling and resolution of complaints about the observance of those standards are established and maintained.

### **326 Duty to observe fairness Code**

The regulatory regime for every programme service licensed by a Broadcasting Act licence includes the conditions that OFCOM consider appropriate for securing observance-

(a) in connection with the provision of that service, and

(b) in relation to the programmes included in that service,

of the Code for the time being in force under section 107 of the 1996 Act (the fairness Code).

## Broadcasting Act 1996

### Chapter 55

#### *Unjust or unfair treatment or unwarranted infringement of privacy*

Preparation by BSC of Code relating to avoidance of unjust or unfair treatment or interference with privacy.

**107.** - (1) It shall be the duty of the BSC to draw up, and from time to time review, a Code giving guidance as to principles to be observed, and practices to be followed, in connection with the avoidance of-

- (a) unjust or unfair treatment in programmes to which this section applies, or
- (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.

(2) It shall be the duty of each broadcasting or regulatory body, when drawing up or revising any Code relating to principles and practice in connection with programmes, or in connection with the obtaining of material to be included in programmes, to reflect the general effect of so much of the Code referred to in subsection (1) (as for the time being in force) as is relevant to the programmes in question.

(3) The BSC shall from time to time publish the Code (as for the time being in force).

(4) Before drawing up or revising the Code, the BSC shall consult-

- (a) each broadcasting or regulatory body, and
- (b) such other persons as appear to the BSC to be appropriate.

(5) This section applies to-

- (a) any programme broadcast by the BBC,
- (b) any programme broadcast by the Welsh Authority or included in the service referred to in section 57(1A)(a) of the 1990 Act, and
- (c) any programme included in a licensed service.

## Annex 5

# Extracts from the Television Without Frontiers Directive (89/552/EEC), as amended by (97/36/EC)

### Article 1

For the purposes of this Directive:

(d) 'surreptitious advertising' means the representation in words or pictures of goods, services, the name, the trademark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve advertising and might mislead the public as to its nature. Such representation is considered to be intentional in particular if it is done in return for payment or for similar consideration.

(e) 'sponsorship' means any contribution made by a public or private undertaking not engaged in television broadcasting activities or in the production of audio-visual works, to the financing of television programmes with a view to promoting its name, its trade mark, its image, its activities or its products;

### Article 10

1. Television advertising and teleshopping shall be readily recognisable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means.

4. Surreptitious advertising and teleshopping shall be prohibited.

### Article 17

1. Sponsored television programmes shall meet the following requirements:

(a) the content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes;

(b) they must be clearly identified as such by the name and/or logo of the sponsor at the beginning and/or the end of the programmes;

(c) they must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services.

2. Television programmes may not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

3. Sponsorship of television programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking but may not promote specific medicinal

products or medical treatments available only on prescription in the Member State within whose jurisdiction the broadcaster falls.

4. News and current affairs programmes may not be sponsored.

#### Article 18

3. For the purposes of this Article [relating to the proportion of transmission time permitted for advertising], advertising does not include:

- announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;
- public service announcements and charity appeals broadcast free of charge

#### Article 22

1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.

3. Furthermore, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration.

#### Article 22a

Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

## Annex 6

# Human Rights Convention, Article 8 and Article 10

## ARTICLE 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

## ARTICLE 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

## Annex 7

# Other Legacy Guidance and Codes

### To be considered separately

*The ITC rules on the promotion of programmes, channels and related services on commercial television - January 2002* are still applied by Ofcom.

They are under consideration and new rules may be contained in the finalised Ofcom Broadcasting Code. Any proposed changes will be consulted on separately.

### To be replaced

Automation: Rule 12 of the Radio Authority Programme Code refers to the amount of automation acceptable on local and regional commercial radio stations. Automation is one of the issues raised within Ofcom's Localness Consultation. The result of that consultation should coincide with the publication of this Code, and may bring about a change in automation restrictions. Until such time the legacy regulator's Rule 12 will remain in force.

### Still in place

The following legacy Guidance and Code are in use until further notice. They will not be part of this Code:

*ITC Guidance on Standards for Sign Language on Digital Terrestrial Television – March 2002;*

*ITC Guidance on Standards for Audio Description – May 2000;*

*ITC Guidance on Standards for Subtitling – February 1999.*

### To lapse

The *ITC Code on Subtitling, Sign Language and Audio Description – July 2001*, is to be replaced shortly by the *Ofcom Code on Television Access Services*, which has been the subject of consultation.

The *ITC Code for Text Services* is covered in content terms by this proposed Code. It will no longer be operated by Ofcom from the coming into force of the new Ofcom Broadcasting Code.

The advertising aspects of the *ITC Guidance to Broadcasters on the Regulation of Interactive Services* will be operated by ASAB. The content aspects will be covered by the new Ofcom Broadcasting Code. Therefore the programme content aspect of this guidance will no longer be applicable once the Ofcom Broadcasting Code comes into force.

# Ofcom Guidance Note on Flashing Images and Regular Patterns in Television

## Re-issued as Ofcom Notes (date tbc)

Revised and re-issued by the ITC in July 2001

Editorial amendment June 2002

1. Flickering or intermittent images and certain types of regular pattern can cause problems for some viewers who have photosensitive epilepsy. These guidelines have been drawn up following consultation with leading medical opinion in this area with the aim of reducing the risk of exposure to potentially harmful stimuli.

2. Television is by nature a flickering medium. In Europe each transmitted picture is refreshed 50 times each second and interlaced scanning generates flicker 25 times each second. It is therefore impossible to eliminate the risk of television causing convulsions in viewers with photosensitive epilepsy. To reduce risk the following guidelines on visual content should be applied when flashing or regular patterns are clearly discernible in normal domestic viewing conditions. It should be noted that the level of any cumulative risk arising from successive sequences of 'potentially harmful' flashes over a prolonged period is unknown. If, as medical opinion suggests, the risk of seizures increases with the duration of flashing, broadcasters should note that it is possible that a sequence of flashing images lasting more than 5 seconds might constitute a risk even when it complies with the guidelines below.

3. **A potentially harmful flash** occurs when there is a pair of opposing changes in luminance (i.e., an increase in luminance followed by a decrease, or a decrease followed by an increase) of 20 candelas per square metre (cd.m<sup>-2</sup>) or more (see notes 1 and 2). This applies only when the screen luminance of the darker image is below 160 cd.m<sup>-2</sup>. Irrespective of luminance, a transition to or from a saturated red is also potentially harmful.

3.1.1. Isolated single, double, or triple flashes are acceptable, but a sequence of flashes is not permitted when both the following occur:

- i. the combined area of flashes occurring concurrently occupies more than one quarter of the displayed (see note 3) screen area; and
- ii. there are more than three flashes within any one-second period. For clarification, successive flashes for which the leading edges are separated by 9 frames or more are acceptable, irrespective of their brightness or screen area.

4. **Rapidly changing image sequences** (e.g. fast cuts) are provocative if they result in areas of the screen that flash, in which case the same constraints apply as for flashes.

5. A **potentially harmful regular pattern** contains clearly discernible stripes when there are more than five light-dark pairs of stripes in any orientation. The stripes may be parallel or radial, curved or straight, and may be formed by rows of repetitive

elements such as polka dots. If the stripes change direction, oscillate, flash or reverse in contrast they are more likely to be harmful than if they are stationary. If the patterns obviously flow smoothly across, into, or out of the screen in one direction they are exempt from restriction.

- 5.1. Potentially harmful patterns are not permitted when either of the following two conditions apply:
  - i. the stripes are stationary and the pattern occupies more than 40% of the displayed screen area; or
  - ii. the stripes change direction, oscillate, flash, or reverse in contrast and the pattern occupies more than twenty five per cent of screen area; and in addition to either of the above two conditions applying, when
  - iii. the screen luminance of the darker bars in the pattern is below 160 cd.m<sup>-2</sup> and differs from the lighter bars by 20 cd.m<sup>-2</sup> or more (see notes 1 and 2).

Footnotes:

1. Video waveform luminance is not a direct measure of display screen brightness. Not all domestic display devices have the same gamma characteristic, but a display with a gamma of 2.2 may be assumed for the purpose of determining electrical measurements made to check compliance with these guidelines (see appendix I).
2. For the purpose of measurements made to check compliance with these guidelines, pictures are assumed to be displayed in accordance with the 'home viewing environment' described in Recommendation ITU-R BT.500 in which peak white corresponds to a screen illumination of 200 cd.m<sup>-2</sup>.
3. It may be assumed that overscan on modern domestic television receiver displays will normally be in the range 3.5% ± 1% of the overall picture width or height (as indicated in EBU Technical recommendation R95-2000).

First issued as an ITC Guidance Note November 1994, first revised September 1999, revised and re-issued July 2001. Re-issued by Ofcom (date tbc)

## Further References

### Relevant Codes

The ITC Programme Code, *Autumn 1998, Section 7.3 revised September 1999, Section 1.12(iii) revised Spring 2001*

Ofcom Broadcasting Code, Harm and Offence, Section 2.10 (date tbc)

The ITC Advertising Standards Code, *September 2002*

### External Publications

Harding, Graham F.A., & Jeavons Peter M. *Photosensitive Epilepsy (1994) ISBN: 0898683 02 6*

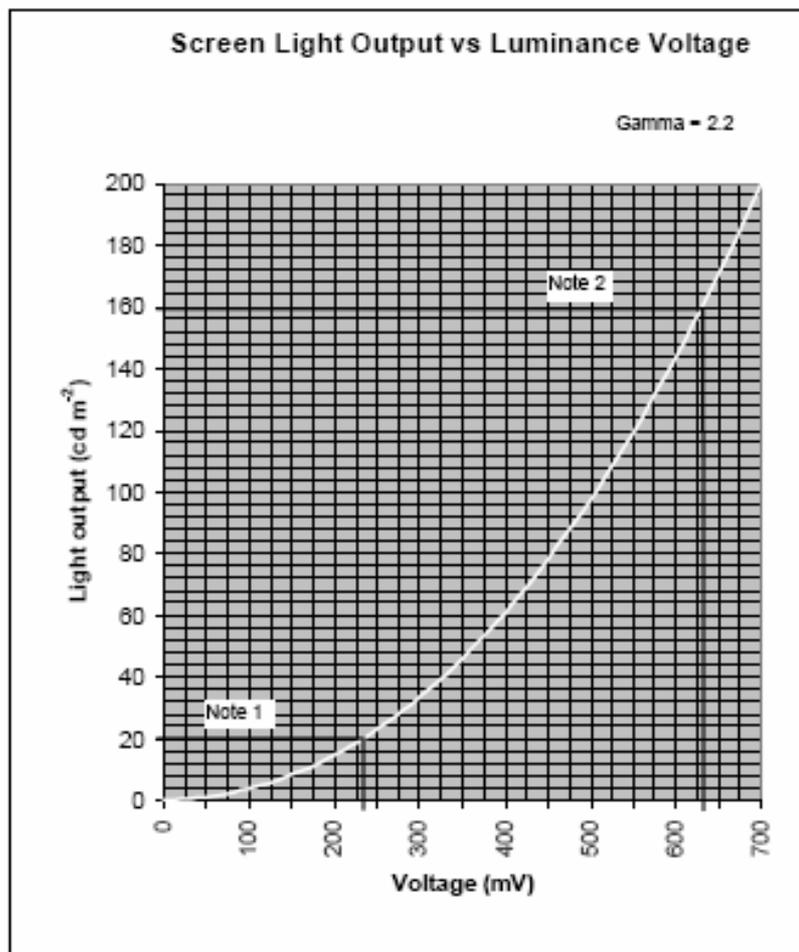
Harding, Graham F.A. *TV can be bad for your health, Nature Medicine Vol.4 No.3 March 1998*

### Ofcom Guidance Note on Flashing Images and Regular Patterns: Luminance Measurement

Screen luminance may be measured using a hand-held spot photometer with a CIE characteristic designed for making measurements from a television screen. The display conditions are those of the 'home viewing environment' described in Recommendation ITU-R BT.500. For accurate results, the display brightness and contrast should first be set up using PLUGE (Rec. ITU-R BT. 814) with peak white corresponding to a screen illumination of 200 cd.m<sup>-2</sup>.

As an alternative, the following graph and table may be consulted if electrical measurements are more convenient. This shows the typical relationship between luminance (monochrome) voltage and the emitted light output of a television display.

There are measurement uncertainties associated with both methods. Nevertheless, flashing images or regular patterns described in this Guidance Note as being potentially harmful can be expected to be obviously discernible. Such potentially harmful images occur only rarely during the course of programme material with scenes that appear natural or represent real life; examples include photographers' flashlights or strobe lights in a disco. Part of the purpose of the Guidance Note is to assist programme producers to avoid inadvertently creating video effects that contain flashing images or patterns likely to be harmful.



Voltage (mV)	Light (cd/m <sup>2</sup> )
0	0.1
25	0.4
50	1.2
75	2.3
100	3.8
125	5.8
150	8.3
175	11.2
200	14.6
225	18.6
234	20.1
250	23
275	28
300	33.5
325	39.5
350	46.1
375	53.2
400	61
425	69.3
450	78.1
475	87.6
500	97.6
525	108.3
550	119.5
575	131.4
600	143.9
625	157
631	160
650	170.7
675	185
700	200

Notes:

1. A luminance voltage of 234 mV results in light output of 20.1 cd.m<sup>-2</sup>. If the **brighter** image of a flash or pattern is **above** this level, then it is potentially harmful if the light output between the darker and brighter images differs by 20 cd.m<sup>-2</sup> or more.

2. A luminance voltage of 631 mV results in light output of 160 cd.m<sup>-2</sup>. If the **darker** image of a flash or pattern is **below** this level, then it is potentially harmful if the light output between the darker and brighter images differs by 20 cd.m<sup>-2</sup> or more.

## Annex 9

# Financial Reporting and Promotion of Investment Activity

(see rule 10.17 in the proposed Code)

1. Section 21 of the Financial Services and Markets Act 2000 prohibits anyone, in the course of business, from communicating an invitation or inducement to engage in investment activity. This is commonly referred to as “the financial promotion restriction”. There are a number of exemptions to the financial promotion restriction and these are set out in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001<sup>3</sup>. Two of these exemptions are of particular relevance to broadcasters – article 20 of that Order contains an exemption in respect of communications by journalists, and article 20A of that Order contains an exemption in respect of promotions broadcast by a company director or employee of a company. This note sets out guidance on how broadcasters can take advantage of the exemptions to the financial promotion restriction.

### Meaning of “financial promotion”

A financial promotion is an invitation or inducement to engage in investment activity (in accordance with section 21(1) of the Financial Services and Markets Act 2000 (Restrictions on financial promotion)).

### Exemption in respect of communications by journalists (article 20 exemption)

2. The exemption for communications by journalists applies to any non-real time financial promotion they prepare while acting as journalists. For the exemption to apply to broadcast journalists the financial promotion must be in either:
  - a. a regularly updated news or information service (such as a website or teletext service); or
  - b. a television or radio broadcast or transmission,

and the main purpose of the broadcast must not be to advise on, or lead, or enable, people to buy or sell securities or contractually based investments.

3. Where the subject matter of the financial promotion is shares and the financial promotion identifies directly a person who issues or provides the shares, journalists must also fulfil a disclosure requirement to benefit from the exemption.

### Meaning of “share”:

Share means any share in a company and includes a derivative on such a share (including traded options).

**Disclosure requirement:** A financial interest would be subject to disclosure where the journalist (or a close family member) would be likely to get a financial benefit or avoid a financial loss if people acted in line with the financial promotion. Where that is the case, the journalist or editor responsible for the financial

---

<sup>3</sup> S.I. 2001/1335.

promotion must declare the nature of any financial interest they (or their close family member) hold.

Note: The disclosure requirement is subject to certain exceptions, set out in paragraphs 4-6 below.

#### Meaning of “close family member”:

Close family member means a spouse and children under eighteen years of age.

4. The exceptions to the disclosure requirement are where the financial promotion is in either:
  - a. a service or broadcast which has proper systems and procedures which prevent the publication of communications without disclosure of financial interests; or
  - b. a service or broadcast which falls within the remit of:
    - i. the Code of Practice Issued by the Press Complaints Commission;
    - ii. the Ofcom Broadcasting Code<sup>4</sup>;
    - iii. the Producer’s Guidelines Issued by the BBC.
5. If a broadcaster wishes to take advantage of the article 20 exemption for journalists, it has a choice. The broadcaster can either:
  - a. comply with the disclosure requirement; or
  - b. put in place proper systems and procedures which prevent the broadcast of financial promotions without disclosure of financial interests.
6. The Financial Services Authority suggests that option in 5.b. above could be achieved by, for example, the broadcaster requiring people working on financial programmes to declare and register their share ownership. This register would be available to the most senior editorial staff that can ensure that self-interested promotions are not broadcast by the person concerned. The Financial Services Authority would also expect relevant staff to be required to be made aware of the existence of this register and of their obligations to disclose financial interests, and to confirm their acceptance of these obligations in writing.

#### **Promotion broadcast by company director etc (article 20A exemption)**

7. The main purpose of the exemption for promotions broadcast by company directors is to guard against the possibility that, during the course of a broadcast interview or a live website presentation, a financial promotion is made inadvertently by a director or employee of a company or other business undertaking when that person is not acting as a journalist.
8. Provided that the financial promotion made is not made as part of an organised marketing campaign, the exemption applies where the financial promotion:
  - a. comprises words which are spoken by the director or employee and not broadcast, transmitted or displayed in writing; or
  - b. is displayed in writing only because it is part of an interactive dialogue to which the director or employee is a party and in the course of which that

---

<sup>4</sup> Note: the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 currently refers to the ITC and Radio Authority Programme Codes. The Intention is that these references will, at the appropriate point, be altered to a reference to the Ofcom Broadcasting Code.

person is expected to respond immediately to questions put by a recipient of the communication.

The exemption also requires that the director or employee is identified as such in the financial promotion before it is communicated.

### **Investment Recommendations**

9. Broadcasters who produce investment recommendations which are intended for the public must comply with the requirements of the Market Abuse Directive<sup>5</sup> relating to the fair presentation of Investment recommendations and disclosure of conflicts of Interest.

Note: this Directive has not yet been implemented into UK law. In doing so, the Treasury and the FSA propose to provide exemptions for investment recommendations appearing in a radio or television programme which falls within the remit of certain specified forms of appropriate UK regulation, including the Ofcom Broadcasting Code. See HMT/FSA Joint Consultation Document of 18 June 2004).

---

<sup>5</sup> See Article 6(5) of Directive 2003/6/EC of the European Parliament and the Council of the European Union on Insider dealing and market manipulation (market abuse) (O.J. No L96, 12.4.2003, p16) and Commission Directive 2003/125/EC of 22 December 2003 Implementing Directive 2003/6/EC as regards the fair presentation of Investment recommendations and the disclosure of conflicts of Interest (O.J. No L339, 24.12.2003, p.73).

# Guidance to the Ofcom Code

## BACKGROUND AND INTRODUCTION

Once the Ofcom Broadcasting Code has been finalised, we propose to provide guidance on the Ofcom web site to broadcasters, viewers and listeners. The intention is that the guidance should serve as tool for the users of the Code and it will be updated as and when appropriate. The guidance will be non-binding, which means that a broadcaster cannot be found in breach of the guidance.

As the Ofcom Code has not been issued, no guidance has yet been drawn up. The principles and rules in the Code are subject to the outcome of this consultation as is, to some extent, Ofcom's interpretation of them. We do, however, recognise that it may be useful for respondents to this consultation to have an example of the type of information we may include in guidance. So we have set out illustrative draft guidance to the sponsorship section of the draft Code below.

Please note that this guidance is in draft and based on a version of the Code which is subject to consultation. The sponsorship guidance below is only intended as an indication of what guidance may look like in terms of style, content and structure. While we invite comments on the way the Code is structured as a whole (see the approach to the Code in the RIA, section 14 of this consultation), including the concept of guidance, we are not expecting comments on the detail of this draft guidance note on sponsorship.

It is also important to point out that guidance may be different for different sections of the Code. Sponsorship is largely a technical area, suited to 'rule-by-rule' guidance. In other areas, such as, for example, Harm and Offence, guidance may instead take the form of a narrative relating to subject matters rather than individual rules.

### **DRAFT GUIDANCE NOTES: Sponsorship (This section and therefore this guidance, does not apply to the BBC)**

These Guidance Notes aim to reflect Ofcom's thinking and any applicable current practice in its interpretation and application of the Ofcom Broadcasting Code (the Code). They must always be read in conjunction with the Code. Guidance may relate to a specific meaning, principle or rule in the Code, or may apply to the whole Code, or a part of it as appropriate.

The Guidance Notes are not exhaustive and cannot cover every eventuality. They should in no way be taken to replace or change the meaning of the Ofcom Code or the relevant legislation. Broadcasters must ensure they have their own compliance arrangements to ensure they meet the requirements of the Code. If a rule is not referred to below it means that we have not published any current guidance in relation to it.

Ofcom intends, and reserves the right, to revise and amend this guidance as and when appropriate. Always ensure that you are using the most recent Guidance Notes. You can receive updates by email whenever the guidance is revised or new guidance issued. To stop your subscription, or to have a new email address added, please send an email to [email]. Broadcasters may also seek informal guidance on the Code by contacting Ofcom directly [address, phone no., email for queries].

## SPONSORSHIP

### Rule 9.1 (i) (Radio)

- **News bulletins and news desk presentation may not be sponsored.**

Non-news desk features with a current affairs background and business/financial news or comment may be sponsored on radio. Care must be taken with the positioning of sponsorships, however, to avoid the impression that a news bulletin or the station's news output is sponsored. The Communications Act 2003 sub-sections 319(2)(c) and 319(2)(d) require "*that news included in television and radio services is presented with due impartiality...*" and "*...is reported with due accuracy.*" Sponsorship should not compromise this requirement. Stations may credit news sources, however, with a simple, single acknowledgement of the news provider, whether a news agency or local newspaper. This is not regarded as sponsorship if the provider has not paid for the specific credit, which must not be presented in a way that appears to suggest it has.

### Rule 9.1(ii) (Television)

- **News and current affairs programmes may not be sponsored.**

'News' includes any programme or newflash containing local, national or international news.

Short specialist reports following a news programme – including sport, travel and weather reports - may be sponsored. They must be presented outside, and clearly separated from, the news programme (e.g. by end credits for the news programme, a station identification or by a commercial break)

Ofcom will normally regard a current affairs programme as one that contains explanation and analysis of current events and issues, including material dealing with political or industrial controversy or with current public policy.

### Rule 9.1(iii) (Television)

- **Consumer advice programmes (programmes or series offering or including reviews or advice on products or services, including what to buy or where to go) may not be sponsored by sponsors whose business involves the marketing or provision of products or services of the type featured.**

This restriction is designed to prevent advertisers with a particular interest in a field influencing (or being perceived as influencing) editorial content. E.g. a programme that includes reviews about cars could not be sponsored by a car manufacturer. Any complimentary review of the sponsor's product within the programme could be seen as promotional for the sponsor (and therefore in breach of Rule 9.7). Research also shows us that viewers are likely to question the integrity of any such review\*. To exclude the sponsor's product from the programme or to give them only mediocre or bad reviews would also amount to an unacceptable influence on the editorial.

Instructional ('how to do') programmes which do not include purchasing advice or reviews may be sponsored by advertisers who supply products or services relevant to the area concerned, provided there is no conflict with other provisions of the Code.

While business and finance programmes are not specifically prohibited from sponsorship, many such programmes must not be sponsored or will be restricted in the choice of sponsor. This is due to the prohibition on sponsorship of certain programmes including current affairs, or the rules concerning the sponsorship of consumer advice programmes. E.g. programmes which contain interpretation or comment on relevant news stories or topical issues and financial advice programmes could not be sponsored.

\* *Broadcasting Standards Regulation*, Millwood Hargrave, November 2003

### **Rule 9.3**

- **No programme on radio or television may be sponsored by a sponsor that is not allowed to advertise on that media...**

Current restricted/prohibited categories of advertising on radio include:

- those who practise or advocate illegal or harmful, or potentially harmful, behaviour;
- tobacco and tobacco products
- firearms and other weaponry
- obscene and restricted material, prostitution and other sexual services
- advertisements of a political nature
- prescription only medicines

Current restricted/prohibited advertisers for television include:

- breath-testing devices and products that purport to mask the effects of alcohol
- all tobacco products. Also non-tobacco products or services which share a brand name with a tobacco product where these are prohibited by law from advertising in other UK media
- private investigation agencies
- guns and gun clubs
- escort agencies
- pornography
- the occult etc
- commercial services offering individual advice on personal or consumer problems
- bodies with political objectives
- Prescription only medicines
- Products for the treatment of alcohol and substance dependence
- Hypnosis-based procedures (including techniques commonly referred to as hypnotherapy), psychiatry, psychology, psychoanalysis and psychotherapy
- Remote medical prescription or treatment
- Homeopathic medicines without UK registration
- Some investment products
- Some bodies subject to the rules on religion, faith and systems of belief
- Most 0909 premium rate phone services
- Some home-working schemes
- Some instructional courses

Full details of the prohibitions and restrictions can be found in the relevant Advertising Codes.

#### **Rule 9.4**

- **Scheduling restrictions that apply to advertising on the relevant media apply also to sponsorship.**

This means that a sponsor may not sponsor a programme during which it would not be allowed to advertise nor at a time during which it would not be allowed to advertise.

#### **Rule 9.7**

- **There may be no promotional reference to the sponsor, its name, trademark, image, activities, services, products or any other direct or indirect interest, in the programme. Any non-promotional reference must be editorially justified. This extends to generic references.**

There is no absolute prohibition on references to the sponsor in the programme they are sponsoring. However, any reference (actual or generic) to a sponsor or a sponsor's product or service must not be promotional and there must be editorial justification for its inclusion. A reference to the sponsor should never be conditional and the sponsorship arrangement may create a higher presumption that a reference is deliberate and/or promotional.

#### **Rule 9.8**

- **Sponsorship must be clearly identified at the beginning and/or end of the programme.**

This rule sets out the minimum requirements to help ensure sponsorship arrangements are transparent. There may also be bumper credits (entering and/or leaving a commercial break). On television, credits may be oral and/or visual.

#### **Rule 9.9**

- **The relationship between the sponsor and the programme must be transparent.**

The sponsor's actual involvement with the programme must be clear to the audience. This includes advertiser funded and masthead programmes.

#### **Rule 9.11 (Radio)**

- **Credits must be broadcast during longer sponsored output, as appropriate for the degree of transparency required.**

Credits are normally broadcast about every 20 minutes but circumstances (e.g. concerts) may demand otherwise.

#### **Rule 9.12 (Radio)**

- **Credits must be short branding statements. They may, however, contain legitimate advertising messages, which must remain secondary.**

A full sponsor credit comprises the sponsor's name, identifies clearly the sponsored output and may contain legitimate advertising. Legitimate advertising includes sales messages, slogans, addresses, phone numbers, web addresses etc. A sponsor credit should not sound like an advertisement.

#### **Rule 9.14 (Radio)**

- **Credits must be cleared for broadcast in the same way as advertisements.**

All credits must be copy cleared centrally (for special category sponsorships) or locally.

#### **9.16 (Television)**

- **There may be no sponsor credits within programmes.**
  - a. **Where a programme contains sponsored strands or sponsored specialist reports, credits must be presented outside, and clearly separated from, the programme.**

The sponsored strand should be clearly identified and separated from the main programme (e.g. by end credits, station identifications, or by a commercial break). This is to prevent the impression that sponsor credits are appearing within the main programme.

#### **Rule 9.17 (Television)**

- **Sponsorship must be clearly separated from advertising. Sponsor credits must not contain advertising messages or calls to action. In particular, credits must not encourage the purchase or rental of the products or services of the sponsor or a third party.**

Credits cannot contain advertising messages or calls to action. The rule does allow sponsors to include basic contact details and mandatory price information in the credits, as long as these do not form part of an advertising message. Any price information that is not mandatory will generally be considered as an advertising message, as may mandatory price information where it is presented as such.

#### **Rule 9.18 (Television)**

- **Where a programme trailer contains a reference to the sponsor of the programme, the sponsor reference must remain brief and secondary.**

The main purpose of a programme trailer is to alert viewers to a forthcoming programme. Any reference to the sponsor should be simple and factual and usually last no longer than a few seconds

# Glossary

the Act	Communications Act 2003
the 1996 Act	The 1996 Broadcasting Act
the 1990 Act	The 1990 Broadcasting Act
BBC	British Broadcasting Corporation
BBFC	British Board of Film Classification
the Code	The proposed Ofcom Broadcasting Code
the Convention	the European Convention on Human Rights
BSC	Broadcasting Standards Commission
HRA	The Human Rights Act 1998
ICSTIS	Independent Committee for the Supervision of Standards of Telephone Information Services
ITC	Independent Television Commission
Ofcom	Office of Communications
PARBUL	Parliamentary Broadcasting Unit Limited
PPERA	Political Parties, Elections and Referendums Act 2000 Act
PPV	Pay-per-view services
PPN	Pay-per-night services
PSBs	Public Service Broadcasters that is the BBC, ITV1, Channel 4 and Five.
RA	Radio Authority
RIA	Regulatory Impact Assessment
RPA	Representation of the People Act 1983
S4C	Sianel Pedwar Cymru. The national broadcasting service transmitted on the Fourth Channel in Wales
TWF Directive	EC Directive 89/552 EEC as amended by 97/36/EC, The European Television Without Frontiers Directive.
VRA	The Video Recordings Act 1984

## Meanings

“children”	Children are people under the age of 15 years.
“close family member”	Close family member means a spouse and children under eighteen years of age.
“context”	Context is used to denote, among other things, the matters referred to in section 319.4 (a), (b), (c) and (d) of the Communications Act which can be found in introduction to this Code. Those matters are the degree of harm or offence caused by the inclusion of a particular sort of material, the likely size and composition of the audience, the likely expectation of the audience, the extent to which content can be brought to the attention of the audience e.g. by the giving of information, and the effect of the material on somebody who views or hears it by chance. Context also includes the service, the time of transmission, what other programmes go before and after the programme concerned, whether the programme is a one off or part of a series as well as the editorial content of the programme. This list is not definitive. Context will also be applied to harmful and offensive material in 2.1.

“designated organisations”	These are organisations designated by the Electoral Commission as representing those campaigning for a particular outcome in the referendum.
“doorstepping”	Doorstepping is the filming or recording of an interview or attempted interview with someone, or announcing that a call is being recorded for broadcast purposes, without any prior warning.
“due impartiality”	Impartiality requires fairness, accuracy and an appropriate level of objectivity and even handedness of approach to a subject. “Due” is an important word in the context of impartiality. “Due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. It means adequate or appropriate to the subject and nature of the programme. So the approach to impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in section 2 of the Code, is important.
“election period”	For a parliamentary general election this period begins with the announcement of the dissolution of Parliament. For a parliamentary by-election this period begins with the issuing of a writ or on such earlier date as is notified in the London Gazette. For the Scottish Parliament elections, the period begins with the dissolution of the Scottish Parliament, or with the date of the occurrence of a vacancy, in the case of a by-election. For the National Assembly for Wales, the Northern Ireland Assembly, the London Assembly and local government elections it is the last date for publication of notices of the election. For European elections it is the last date for publication of the notice of election which is 25 days before the election. In all cases the period ends with the close of the poll.
“elections”	This includes parliamentary general elections, parliamentary by-elections, local government elections, mayoral elections, Scottish Parliament, and Welsh, Northern Ireland and London Assembly elections, [Regional Assembly elections] and European parliamentary elections.
“electoral area”	The local government equivalent of the Parliamentary terms ‘constituency’ and ‘by-election’ are ‘electoral areas’ and ‘election to fill a casual vacancy’. Rules 6.8- 6.12 apply to an electoral division, borough ward or other area in the same way as to a constituency for a parliamentary election.
“event”	For the purpose of this rule, events are recognised sporting occasions or other legitimate events. Broadcast coverage must not be the principal purpose of the event and the event must be open to members of the public

“financial promotion”	A financial promotion is an invitation or inducement to engage in investment activity (in accordance with section 21(1) of the Financial Services and Markets Act 2000 (Restrictions on financial promotion)).
“legacy Codes”	BSC Code on Fairness and Privacy BSC Code on Standards ITC Programme Code ITC Code of Programme Sponsorship RA News and Current Affairs Code and Programme Code The sponsorship rules contained in the RA Advertising and Sponsorship Code
“legitimate expectations of privacy”:	Legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place. Some activities and conditions may be of such a private nature that filming or recording, even in a public place, could involve an infringement of privacy.
“life-changing”	Life-changing advice includes advice about health, finances, employment, relationships etc.
“major party”	In the UK major parties presently are the Conservatives, Labour and the Liberal Democrats. In addition major parties in Scotland and Wales respectively, are the Scottish National Party and Plaid Cymru and the major parties in Northern Ireland are Democratic Unionist, Sinn Fein, Social Democratic and Labour Party, and Ulster Unionist.
“matters of major political or industrial controversy and major matters relating to current public policy”	These will vary according to events but are generally matters of political or industrial controversy or of current public policy which are of national, and often international, importance.
“matters of political or industrial controversy and matters relating to current public policy”	Matters of political or industrial controversy are political or industrial issues or events on which politicians, industry and/or the media are in debate.  Matters relating to current public policy need not be the subject of such debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf e.g. non governmental organisations, relevant European institutions etc.
“permitted participants”	Campaigners in a referendum have to register as permitted participants in the same way that political parties do for an election.

“personal view” and “authored”	‘Personal view’ programmes are programmes where the presenter is presenting his or her personal view, opinion or beliefs on these matters. Personal views can range from the outright expression of highly partial views e.g. by a person who is a member of a lobby group and is campaigning on the subject, to the considered ‘authored’ opinion of a journalist, commentator or academic, with professional expertise or a specialism in this area which enables her or him to express opinions which are not necessarily mainstream
“persons involved in deciding the content a programme”	Persons involved in deciding the content of a programme includes without limitation programme makers, interviewers of and expert guests.
“product placement”	Product placement is the inclusion of, or a reference to, a product or service within a programme in return for payment or other valuable consideration to the programme-maker or broadcaster (or any representative or associate of either).
“programmes included in the service taken as a whole”	Programmes included in the service taken as a whole, means programming dealing with the same or related issues within an appropriate period
“programme related material”	Programme related material is products or services that are both directly derived from a specific programme and intended to allow listeners or viewers to benefit fully from, or to interact with, that programme.
“referendum period”	For referendums different periods apply. A referendum held under the Northern Ireland Act begins when the draft of an Order is laid before Parliament for approval by each House. In the case of a referendum held under other Acts the time at which a referendum period commences is given in the individual Acts. In the case of an Order before Parliament the time will be given in that Order. In all cases the period ends with the close of the poll.
“referendums”	Referendums includes UK-wide, national, and regional referendums but does not extend to local referendums.
“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.
“series of programmes taken as a whole” (in relation to television and national radio)	This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can mean e.g. a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.
“share”	Share means any share in a company and includes a derivative on such a share (including traded options)

“sponsored programme”	A sponsored programme is a programme that has had some or all of its <b>costs</b> met by a <b>sponsor</b> with a view to promoting its own or another’s name, trademark, image, activities, services, products or any other direct or indirect interest. <b>Costs</b> include any part of the costs connected to the production or transmission of the programme. A <b>sponsor</b> is any organisation or person, other than the broadcaster or programme producer, who is sponsoring the programme or programming in question with a view to promoting their or another’s name, trademark, image, activities, services, products or any other direct or indirect interest. This meaning extends to those who are otherwise supplying or funding the programme.
“surreptitious filming or recording”	Surreptitious filming or recording includes the use of long lenses or recording devices, as well as leaving an unattended camera or recording device on private property without the full and informed consent of the occupiers or their agent. It may also include recording telephone conversations without the knowledge of the other party, or deliberately continuing a recording when the other party thinks that it has come to an end.
“undue prominence”	Undue prominence may result from (but is not limited to) the recurring reference to or presence of a product or service (including company names, brand names, logos etc) in a programme, or from the manner in which a product or service is presented or appears in a programme.
“undue prominence of views and opinions”	Undue prominence is a significant imbalance of views aired of within coverage of matters of political or industrial controversy or matters relating to current public policy.
“unsuitable sponsorship”	Unsuitable sponsorship is sponsorship that infringes any provision of the sponsorship section of the Code.
“virtual advertising”	Virtual advertising normally takes place at sporting events, and involves altering the broadcast signal to replace existing venue advertising with other advertising in the television picture (potentially targeted at a particular geographical audience).
“vulnerable people”	This varies, but may include those with learning difficulties, those with mental health problems, the bereaved, people with brain damage or forms of dementia, people who have been traumatised or who are sick or terminally ill.
“warranted”	In this section ‘warranted’ has a particular meaning. It means that where broadcasters wish to defend an infringement of privacy as warranted, they should be able to demonstrate why. If the reason is that it is in the public interest, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest would include revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations or disclosing significant incompetence in public office.

“watershed”	The watershed only applies to television. It is the period which starts at 2100 and lasts until 0530. Material unsuitable for children should not, in general, be shown before 2100 or after 0530. On premium subscription services the watershed is to be confirmed as a result of this consultation.
“when children are particularly likely to be listening”	This phrase applies to radio and sound services. It particularly refers to the school run and breakfast time, but might include other times.
“young persons”	Young persons are those aged 15,16 and 17.