



A Draft

Broadcasting Code for the

Republic of Trinidad and Tobago

Telecommunications Authority of Trinidad and Tobago
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1 INTRODUCTION

A. PURPOSE

The Telecommunications Authority of Trinidad and Tobago (“the Authority”) is a statutory body established by the Telecommunications Act Chap. 47:31 (“the Act”) as the independent regulatory body for the telecommunications and broadcasting sectors in Trinidad and Tobago. In the context of broadcasting, the Authority performs this function by considering applications by interested parties for concessions for the provision of broadcasting services and making appropriate recommendations to the Minister responsible for telecommunications, by regulating the electromagnetic spectrum used to provide free to air broadcasting services, and ensuring that the services provided are consistent with the terms and conditions set out in the relevant concession.

The Act requires that the Authority regulates the provision of broadcasting services in a manner that is consistent with Sections 4 and 5 of the Constitution of the Republic of Trinidad and Tobago and guides the development of the broadcasting sector in a manner that is likely to safeguard, enrich and strengthen the national, social, cultural and economic well-being of the society. It is therefore incumbent on the Authority to regulate in a manner which is objective, transparent and non-discriminatory.

Section 79 of the Act further requires that the Authority, subject to affirmative resolution of Parliament, promulgate a Broadcasting Code to regulate the practices of providers of broadcasting services. Built upon the framework of rights contained in the Constitution, this Broadcasting Code (“the Code”) creates a regulatory framework designed to enable the Authority to balance the conflicting rights and interests of stakeholders while promoting acceptable standards through the introduction of protective provisions.

The rights and interests related to broadcasting are varied and complex: for example Broadcasting Service Providers have a right to freedom of expression and individuals have a right to receive information. Individuals also have rights to privacy and respect for their family life and are protected in law against defamation. Society as a whole has an interest in the protection of national security, the prevention of crime and the maintenance of ethical and cultural standards. This therefore imposes a responsibility for broadcasting to be conducted in a manner which fosters freedom of expression but also recognises and guards against infringement of other fundamental rights and freedoms.

Several factors have been taken into account in the formulation of a Broadcasting Code for Trinidad and Tobago. These include: this country’s multi-cultural, multi-religious, multi-ethnic society, and are outlined below:-

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- (1) the acknowledgment that a free press, understood here to include the traditional broadcasting industry, is an essential pillar of the system of democracy that underpins the society within Trinidad and Tobago and that any restriction on the exercise of freedom of expression must be fully justified as necessary by the particular circumstances or by an overriding public interest which requires such restriction;
- (2) the expressed desire of the broadcasting industry for a co-regulatory approach which acknowledges on the one hand the responsibility of each Broadcasting Service Provider to uphold a set of standards in broadcasting which redounds to the enrichment and improvement of our society and respects the rights of others, and on the other hand the responsibility of each and every citizen and more particularly every parent to be media literate;
- (3) the appreciation that continuous and rapid developments in technology are rapidly changing the sphere of traditional broadcasting, including the ways and speed with which news and content are disseminated; and
- (4) the capacity of the Authority to effectively implement and enforce a Broadcasting Code.

Most societies recognize that in particular circumstances, certain rights and freedoms may be fettered. Some of the primary areas where restrictions may be considered include:

- (1) the protection of national security;
- (2) the prevention of crime and disorder;
- (3) territorial integrity;
- (4) public safety;
- (5) the protection of health or morals; or
- (6) the reputation or rights of others.

The design of the Code recognizes that in Trinidad and Tobago, there currently exists legislation in force which provides some level of protection and remedies in all of the aforementioned areas. The Code, as formulated, underscores an appreciation of the fact that the perception of harm may be entirely subjective in nature and as such what one person may perceive to be harmful may not have the same or similar effect on another individual. Moreover, a society's perception of what is and what is not acceptable for public broadcast may change over time.

The Code does not seek to anticipate and cater for every situation or circumstance which may arise. Rather, the Code sets out a broad framework for the regulation of broadcasting content, in which there is an inherent appreciation of the fact that each case of alleged or perceived breach has to be assessed in the context within which it occurs. This framework is intended to guide Broadcasting Service Providers in the right direction when undertaking the exercise of editorial judgment, in order to foster the highest possible standard within the broadcast media. In this respect the Code is also reliant on the internal standards and guidelines developed and enforced by each Broadcasting Service Provider which should be no less strict than those outlined in the Code.

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The Code as presented is therefore carefully constructed to:

- (1) prescribe and enforce a basic, clear set of rules or standards for the broadcasting industry;
- (2) partner with the industry to uphold standards which uplift and improve the society and which promote respect for the individual and for our institutions, and
- (3) impose a system of penalties that is proportionate to the breaches and develop a clear mechanism for the determination of a breach and the penalty to be applied.

The Code when applied should not stifle creativity nor should it unduly or unnecessarily restrict freedom of expression. Rather, it seeks to improve media literacy so that adult audiences understand what to expect from Broadcasting Service Providers and also comprehensively outlines the procedure for directing complaints and also the manner in which complaints will be treated. By the same token the Code is aimed at instilling an effective and inexorable level of protection to our nation's children with respect to harmful material.

In summary, Broadcasting Service Providers, exercising independent editorial judgment, may produce and disseminate any content they choose, provided that the content conforms to the parameters of the Code and by extension to the laws of the Republic of Trinidad and Tobago.

B. OBJECTIVES

The objectives that are outlined in the Code are geared towards ensuring that:

- Children are neither harmed nor misled by the transmission of inappropriate and/or inaccurate material;
- Standards are applied to provide adequate protection for listeners and viewers against harmful, abusive or discriminatory material;
- Material likely to encourage or incite the commission of crime or to lead to disorder is not included in broadcasting services;
- News, in whatever form, is reported with due accuracy and presented with impartiality;
- To the extent that Broadcasting Service Providers cover political matters during the period of elections that they present a sufficient range of information, views and opinions, in a balanced manner, to enable viewers to make informed political decisions;

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- Broadcasting Service Providers avoid unjust or unfair treatment of individuals or organizations;
- Broadcasting Service Providers respect the privacy of individuals in the content of their programmes and in connection with obtaining material included in programmes;
- Viewers and listeners are given adequate information or warning about programming that contains any material that may be harmful to viewers or listeners;
- News content and advertising are kept distinct so as to ensure that:
 - members of the public are not confused;
 - advertising pressures do not compromise the integrity of information provided by the Broadcasting Service Provider;
 - misleading information is not given to the public; and
 - advertising does not cause unnecessary harm.
- Broadcasting services are provided to the highest standards through the introduction and implementation by Broadcasting Service Providers of internal policies, processes and procedures which are fully compliant with the Code and consistent with best practice standards in the field of broadcasting services.

C. SCOPE

The broadcasting services to be regulated by the Code are free-to-air radio, free-to-air television as well as subscription television and radio services.

The Code contains Rules for the regulation of the content of programmes and material transmitted by Broadcasting Service Providers and seeks to address:

- Broadcasting Service Providers' responsibilities towards the family, children and the community;
- observance of appropriate standards with respect to the treatment of violence, crime, drugs, sex, news, current affairs and advertising; and,
- fairness in dealing with controversies, personal attacks, matters of a political nature and religion.

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The Code further addresses the Broadcasting Service Providers' responsibility to implement internal policies, procedures and standards to ensure acceptable conduct in the provision of broadcasting services.

The Code sets out clear roles and responsibilities for both the Broadcasting Service Provider and the Authority in the addressing of complaints by members of the public regarding the content of a broadcast and for redress and penalties in the event that the standards set out in the Code are breached by Broadcasting Service Providers.

It prescribes specific standards for broadcasting services in relation to a number of issues including the following primary areas:-

- Protection of children
- Harm, abuse and discrimination
- Crime
- Race or Ethnicity
- Religion
- News and Public Affairs
- Elections
- Fairness
- Privacy
- Information, Warnings and Audience Protection
- Advertising, Sponsorship and Promotional Programming
- Broadcasting Service Provider's Internal Policies

The Code recognises and acknowledges that subscription television is subject to an element of choice by adult subscribers which addresses many of the issues which militate in favour of regulation of the content broadcast. Notwithstanding this, it remains important to ensure that persons are able to select a range of programming which complies with the provisions of the Code so that parents are able to control material accessed by children and young persons, and also ensures that fundamental rights are not infringed in subscription broadcasting.

Accordingly, whilst much of subscription television may be outside the scope of certain parts of the Code, a provider of subscription television services must make available to its customers a

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“general audience package”, which will be subject to the same rules that apply to free-to-air television.

The general audience package should comprise material designed for general audiences but must contain at a minimum, news, including news from a domestic Broadcasting Service Provider in Trinidad & Tobago and all channels carried pursuant to a “must carry” obligation in the Broadcasting Service Provider’s authorisation.

Optional packages or premium content only available to subscribers at an additional fee have been exempted from some of the provisions contained in the Code. The Broadcasting Service Provider must indicate clearly to subscribers prior to their subscription whether or not a particular package or content is compliant with all provisions of the Code.

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

D. CONSULTATION PROCESS

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

The Authority revised the draft document taking into consideration the comments and recommendations received in the first consultation round. One of the critical issues in the first round of consultation was the need to involve certain stakeholders at a formative stage. The Authority therefore utilised a more inclusive approach to drafting of the second version of the document, which included the engagement of consultants with expertise in the media and broadcasting industry who correlatively engaged in consultation with stakeholders during the drafting process. Based on the substantial nature of the comments received in the First Round of Consultations and the fact that it resulted in an entirely different approach to the formulation of a Broadcasting Code, the Authority has not included with this document a detailed account of the comments received in that round of consultation.

The revised approach resulted in a significant reformulation to the original draft document. Perhaps most significantly, the Authority revised its approach so as to formulate a Code which contains Rules with which Broadcasting Service Providers must comply, as well as a separate document containing Guidelines, which serves as an aid in the interpretation of the Rules. This approach was adopted due to the prevalence of confusion regarding the manner in which particular clauses would be interpreted by the Authority. It should be noted that the Guidelines

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are intended to be a more fluid document, with revisions being made based on experiences in implementation of the Code.

The Authority published a “Consultative Document on the Broadcasting Code” on 11 July 2008. Initially the document was distributed to key stakeholders in the broadcasting, public and NGO sectors, soliciting comments and inviting those stakeholders to meet with the Authority to discuss the document. The full document was then published on 4 August 2008 in all daily newspapers circulating in Trinidad and Tobago, and the Tobago News seeking comments from the public. The Authority undertook a substantial advertising campaign to heighten public awareness about the Code and during the months of September and October 2008 conducted six (6) public meetings at various parts of the country at which members of the public were invited to make comments. This round of consultation was completed on 31 October 2008.

Comments were received on all parts of the document however it was noted that each stakeholder group had particular concerns on specific provisions within the document.

For example, the general public felt that the provisions designed for protection of children and in particular those relating to displays of nudity and sexuality, were too lenient and that there was a need for a more stringent approach to such issues. Persons generally felt that more robust provisions were required in order to ensure that children were not exposed to unsuitable content. Certain religious groups also expressed great concern that the parts of the Code which prohibited attacks against other religions would represent an unreasonable fetter on their freedom of expression, though these comments were often countervailed by the contrasting views of other religious groups which felt that such protection was needed.

The key areas in which Broadcasting Service Providers felt that changes were required were the clauses which pertain to the areas of Harm and Offence which Broadcasting Service Providers considered too wide and restrictive on freedom of expression as well as the clauses which pertain to the area of News and Current Affairs and those which relate to the on Elections which were considered an unreasonable limitation on freedom of the press. Broadcasting Service Providers were also highly critical of the penalties, which they felt were too harsh, though comments were received from members of the public which felt that the penalties might be inadequate or the process too unwieldy.

A significant theme of the second round of consultation was a clear need for the Authority to ensure, from a legal perspective, that the limitations set out in the Code were consistent with the Constitution, certain persons having expressed a view that the Code might overstep the legitimate and proportional limits justifiable under a Code of this nature.

Based on the comments received, the Authority proceeded to revise the document, taking into account the comments received, where appropriate. The Authority also engaged the advice of Senior Counsel with experience in the area of Public and Constitutional Law in Trinidad and

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Tobago, to ensure that each provision of the Code was consistent with the Constitution of the Republic of Trinidad and Tobago.

The revised document, based on the consultation and legal advice proffered, was published for further comments on 15 December 2008 in which comments were invited for submission to the Authority in writing by no later than 23 January 2009.

Comments were received on all parts of the document and the Authority has revised the document where appropriate. Based on this round of consultation significant changes were made to more appropriately address the issues which relate to subscription broadcasting, and to include more comprehensive requirements in relation to the area of News and Current Affairs. Further to this, based on stakeholder suggestion the Authority has also introduced a requirement for Broadcasting Service Providers that transmit news and current affairs to publish their internal practices and procedures, which must be consistent with the express requirements of the Code. The Authority has also sought to clarify the language used in certain provisions of the Code and revise the definitions contained therein.

On 19 March 2009 the Authority forwarded the Code to the then line Minister, the Minister of Public Administration, for promulgation in accordance with section 79 of the Act. In furtherance of the objects of the Act, the Government initiated its own process of consideration which was conducted by a Cabinet appointed Committee, chaired by the Honourable Senator Conrad Enill, Minister of Energy.

The review process undertaken by the Committee included the conduct of focussed consultation sessions with key stakeholders as well as presentations by the Authority to members of the Committee on key aspects of the Code. Arising out of its deliberations, the Committee commended the Authority for its consultation process but was of the view that certain comments which were submitted by members of the public and key stakeholders that contained suggestions which were consistent with the Government's policy for the Broadcasting Sector and in the best interests of the public, had not been adopted by the Authority in its revisions of the Code. To that end, the then Minister of Public Administration requested that the Authority further review certain aspects of the Code, taking into consideration the comments that had been received from members of the public and key stakeholders.

In response to the concerns expressed by the Cabinet Committee, the Authority reviewed its decisions on recommendations made in the consultation process in relation to the specific issues identified by the Minister, and submitted a revised version of the Code to the Minister for his consideration on 6 August 2009.

Subsequently the Authority was asked in 2011 by then Minister of Public Administration to review the Code in the context of the time which had elapsed between the last consultation and the current period. Based on such instructions, the Authority again reviewed the draft and further

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modifications were made to ensure editorial consistency of the terms and structural cohesion of the final document.

The Authority then undertook a final round of consultation in March 2013 and further amendments were made based on the comments and recommendations received. The Authority wishes to thank all stakeholders who have participated in the consultation process at its various stages for their assistance in the Authority's creation and finalization of the Code and Guidelines.

2 HOW TO USE THE CODE AND GUIDELINES

The draft version of the Code is set out in Section 3. The Code identifies Objectives and Rules. The Objectives represent the desired result of the Code, and the Rules are measures designed to achieve such objectives.

Rules are those provisions with which Broadcasting Service Providers must comply, and are set out in Part C of the Code. Breach of a Rule constitutes an effective breach of the Code, for which the Authority may impose sanctions in accordance with the penal provisions of the Code. The Objectives are used as an aid to the proper interpretation of the Rules, where required. Only the Code itself will be promulgated in accordance with section 79 of the Act. The remaining parts of the document will be established by the Authority through publication.

Section 4 contains a document entitled Enforcement of the Code. This document sets out the procedures and principles through which the Authority will ensure compliance with the Rules set out in the Code, including a system for graduated warnings to be given and sanctions to be pursued in the event of a breach of the Rules. This document may be reviewed and amended as necessary, save that it will, at all times, be consistent with the sanctions and powers set out in the Act.

Section 5 contains the Broadcasting Code Guidelines (“the Guidelines”). These Guidelines are intended to assist Broadcasting Service Providers and members of the public in interpreting the Rules. They should be read in conjunction with the Rules. Failure to follow the Guidelines does not in itself constitute a breach of the Code provided that the Broadcasting Service Provider otherwise complies with the Rules. The Guidelines will be revised by the Authority from time to time as appropriate to ensure that the integrity of the contextual basis for the Code is retained.

3 THE BROADCASTING CODE

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REPUBLIC OF TRINIDAD AND TOBAGO

THE TELECOMMUNICATIONS ACT, Chap. 47:31

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made under section 79 of the Telecommunications Act Chap. 47:31

These Rules may be cited as the Broadcasting Code hereinafter referred to as “the Code”.

A. INTERPRETATION OF TERMS

In this Code-:

“**Abusive treatment**” means the treatment of an individual in a manner that causes injury without reasonable justification as outline in the Code.

“**Act**” means the Telecommunications Act Chap. 47:31.

“**Adult**” means a person eighteen (18) years of age and over, in accordance with the Age of Majority Act, Chap. 46:06.

“**Applicable law**” means the Laws of the Republic of Trinidad and Tobago

“**Authority**” means the Telecommunications Authority of Trinidad and Tobago.

“**Broadcasting Service**” shall have the meaning ascribed to it in the Act.

“**Broadcasting Service Provider**” means the person who is responsible for the provision of a broadcasting service and does not include the person who solely provides programmes for scheduling and subsequent delivery via that broadcasting service.

“**Children**” shall have the meaning ascribed to it in the Children Act, Chapter 46:01.

“**Context**” means the circumstances within which a particular programme is broadcast having regard to the following factors:

- editorial content of the programme, programmes or series;
- service on which the material is broadcast;
- time of broadcast;
- programmes which are scheduled before and after the programme or programmes concerned;
- degree of harm likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description;
- likely size and composition of the potential audience and likely expectation of the audience;
- extent to which the nature of the content can be brought to the attention of the potential audience, for example, by giving information; and,
- effect of the material on viewers or listeners who may inadvertently encounter the programme.

“**Discriminatory Material**” means any material, either by speech or visual representations, which target an identifiable group in a manner that endorses or incites hostility, violence or anti-social divisions against such group.

“**Due impartiality**” means that there is no significant imbalance of views or opinions aired within coverage of matters of political or industrial controversy or matters relating to current public policy.

“**Ethnicity**” in relation to a group of people, means the origin, characteristics, classification and distinctive cultural or aesthetic traditions of that group of people, in accordance with the Equal Opportunity Act, Chap. 22:03.

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

“**Fair**” means the affirmative responsibilities on a Broadcasting Service Provider to provide coverage of issues of public importance in an honest and just manner which is appropriate in the circumstances and does not deceive the audience in any way or form.

“**General Audience Package**” refers to a television package which is offered within a subscription service suitable for all ages, is fully compliant with the Code and contains at a minimum all channels carried pursuant to the “must carry” obligation in the Broadcasting Service Provider’s Concession

“**Identifiable group**” means, but is not limited to, groupings of natural persons based on race, ethnicity, religion, sexual orientation, geographical origin, habitual residence, marital status and/ or any disability of those persons.

“**Life-changing advice**” means advice upon which persons could reasonably be expected to act or rely upon in respect of their health, finances, employment, or personal relationships.

“**Matters of political or industrial controversy**” means matters on which politicians, industry and/or the media are in debate.

“**Optional package**” means premium content available only to subscribers paying additional monthly or other fees to their subscription television providers.

“**Period of elections**” means the period beginning with the issue of a writ of election by the President in accordance with Section 33 of the Representation of the People Act Chap. 2:01 and ending with the close of the polls and the declaration of results in the relevant election by the Returning Officer.

“**Personal view**” means a programme presenting a particular view or perspective and can include the outright expression of highly partisan views. Where the term “authored programme” appears, it shall have the same meaning as ascribed to “Personal view”. Such opinions may be expressed by a person who is a member of a lobby group and is campaigning on the subject; or they may be the “authored” view of a journalist, commentator, or academic with professional expertise or a specialisation in an area which enables them to express opinions which are not necessarily main stream.

“**Politician holding office**” means a Minister of Government, a Member of Parliament Alderman, Mayor, Councillor, Member of the Tobago House of Assembly and during the period of elections shall also include a member of the executive or governing body of any political party which has or is reasonably expected to have candidates contesting that election.

“**Pornographic content**” means profane, indecent or obscene content describing or exhibiting explicit sexual activity but does not include any visual representation produced or reproduced for the purpose of education, counselling, or promotion of reproductive health or as part of a criminal investigation and prosecution or civil proceedings or in the lawful performance of a person’s profession duties and functions.

“**Public figure**” means a public official or other person who is pervasively involved in public affairs.

“**Public interest**” means matters which may reasonably be judged to have an impact on the population as a whole or groups of citizens. It includes, but is not limited to detecting or exposing crime or serious impropriety, corruption or professional incompetence that affects members of the public; protecting public health or safety; or preventing the public from being misled by an action or statement of an individual or organisation.

“**Race**” in relation to a person, means a group of persons of common ethnic origin, colour or of mixed race.

“**Reasonable person**” means an individual who exercises qualities of attention, knowledge, intelligence and judgment which are appropriate in a given context or circumstance for the protection of the interests of society or person.

“**Scientific data**” means information which is based on research carried out by scientists and which has been published in a peer-reviewed journal or validated by an internationally recognised authority on the relevant subject matter.

“**Series**” means a set of programmes which are editorially linked and deal with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.

“**Subscription service**” means a broadcasting service which is purchased or subscribed to by a user.

“**Telecommunications**” shall have the meaning ascribed to it in the Act.

“**Warranted**” means where the public interest demonstrably outweighs the right to privacy.

“**Watershed**” refers to that period between 22:00 hours and 5:00 hours outside of which material that is unsuitable for children cannot be broadcasted.

B. SCOPE AND APPLICABILITY

- 1.1 Any person granted a concession pursuant to the Act for the provision of broadcasting services shall comply with the provisions of the Code. The Code therefore applies to free to air radio and television and subscription radio and television services
- 1.2 A holder of a concession for the operation of a public domestic telecommunications network who provides subscription services over such network shall provide a general audience package to all subscribers of its service, which shall be subject to the same rules that apply to free-to-air services. Such package shall be provided to all subscribers within the base subscription price and shall contain at a minimum news programming including news programming from a domestic Broadcasting Service Provider in Trinidad & Tobago.
- 1.3 Certain exemptions shall apply to optional packages or premium content which are only available to subscribers at an additional fee as more particularly set out herein. The Broadcasting Service Provider shall indicate clearly to all subscribers prior to commencement of their subscription whether or not the package or content is subject to the provisions of the Code.
- 1.4 A Broadcasting Service Provider who offers subscription services shall put into place the necessary parental control mechanisms and safeguards to allow purchase of subscriptions and the selection of optional packages and premium content by adults only.
- 1.5 In determining the content to be included in the broadcasting service, the Broadcasting Service Provider or its editorial staff may be required to exercise judgment to ensure compliance with the provisions of the Code. In determining whether a particular broadcast complies with the provisions of the Code, the Authority will apply the standard of a reasonable person with appropriate experience and knowledge of the Code, exercising prudent editorial judgment in the particular circumstances.
- 1.6 The Authority may, where it considers appropriate, establish by publication in the Gazette and in one (1) daily newspaper in general circulation in Trinidad and Tobago, Guidelines on any Rule contained in this Code. These Guidelines shall be used as aid in the interpretation of that Rule or to provide clarity as to the manner in which compliance with the Rule may be achieved. The Authority may at any time amend or modify any Guideline established in accordance with this Code, such amendment to be effected in the same manner as its establishment.

C. RULES

1. General Rules

- 1.1 Broadcasting Service Providers shall adhere to all applicable law in the conduct of their business.
- 1.2 Broadcasting Service Providers shall not broadcast any programmes, information, material or content without having first obtained all required permissions from the owner(s) of the intellectual property in such programmes, information, material or content and shall not otherwise infringe the intellectual property rights of any person or organization.
- 1.3 The breach of any law which may also apply to any Rule in this Code, shall constitute a breach of the Code. Such offences shall include, but shall not be limited to defamation, incitement, sedition, sexual crimes against minors.

2. Protection of Children

Objective: To ensure that children are neither harmed nor misled by the broadcast of inappropriate and/or inaccurate material.

Scheduling

- 2.1 Broadcasting Service Providers shall use appropriate scheduling to protect children from unsuitable material.

“Appropriate scheduling” shall consider the:

- (i) nature of the content;
 - (ii) likely number and age of children in the audience, taking into account the time of transmission, weekends and school holidays;
 - (iii) start and finish time of the programme;
 - (iv) nature of the channel or station and the particular programme; and
 - (v) likely expectations of the audience for a particular channel or station at a particular time and on a particular day.
- 2.2 All Broadcasting Service Providers must comply with the Watershed.

Language

- 2.3 Broadcasting Service Providers shall not broadcast any offensive language outside of the Watershed.

Violence

- 2.4 Explicitly violent material shall not be broadcast outside of the Watershed.
- 2.5 Broadcasting Service Providers shall ensure that all material broadcast outside of the Watershed deals carefully and not gratuitously, with themes which could threaten the sense of security of children.
- 2.6 Broadcasting Service Providers shall ensure that material broadcast outside of the Watershed deals carefully with themes which could invite children to imitate dangerous or harmful acts.

Sexual themes

- 2.7 Broadcasting Service Providers shall ensure that broadcasts do not contain content which portrays children in an explicitly sexual manner, except where justified in the context of any visual representation produced or reproduced for the purpose of education, counselling, or promotion of reproductive health or as part of a criminal investigation and prosecution or civil proceedings or in the lawful performance of a person's profession duties and functions.
- 2.8 Broadcasting Service Providers shall provide suitable warnings for programmes addressing incest or child abuse and are appropriately scheduled in accordance with Rule 2.1.
- 2.9 Representations of sexual intercourse must not be broadcast outside the Watershed unless there is a legitimate educational purpose. Any broadcasts which contain discussion or portrayal of sexual behaviour broadcast outside the Watershed must be appropriately limited and inexplicit.

Nudity and pornographic material

- 2.10 Broadcasting Service Providers shall not broadcast nudity outside of the Watershed except where justified by the context and inexplicit.
- 2.11 Pornographic content must not be broadcast at any time.

Drugs, Alcohol, Solvents and Smoking

- 2.12 Broadcasting Service Providers shall not broadcast any programmes which condone, encourage or glamorise the use or abuse of illegal drugs, alcohol, solvent abuse or smoking outside the Watershed.

Participation of children in programmes

- 2.13 Broadcasting Service Providers shall obtain the consent of the parent, legal guardian or person in *loco parentis* prior to transmitting a broadcast containing a contribution from a child.

Children and crime

- 2.14 Broadcasting Service Providers shall not broadcast names and/or images of children who are victims or accused or convicted of crimes.
- 2.15 Where broadcasts involve the reporting of crime including but not limited to sexual assaults or incidents involving children, including those who are victims, Broadcasting Service Providers shall take such steps as may be necessary to minimise psychological trauma to children and further shall take into account:
- (i) the time of transmission
 - (ii) the protection of the identity and reputation of the children involved
 - (iii) that the degree of explicit detail shown is integral to the report and
 - (iv) the probability of the presence of children in the audience.

Application to subscription services

- 2.16 The provisions of Rules 2.1, 2.2, 2.3, 2.9, 2.10, 2.11, 2.12 and 2.15 shall not apply to optional packages or premium content broadcast within a subscription service provided that the Broadcasting Service Provider informs the adult subscriber of the nature of the programming, that it may not comply with all provisions of the Code and that adequate parental control mechanisms have been implemented.
- 2.17 Broadcasting Service Providers shall not breach the Watershed in the transmission of the general audience package of content which originates in other countries as a result of time zone differences between the place of origination of content and Trinidad and Tobago.

3. Harm, Abuse and Discrimination

Objective: To ensure that standards are applied to provide adequate protection of audiences against harmful, abusive or discriminatory material.

- 3.1 Broadcasting Service Providers shall ensure that their programming contains no discriminatory material which is not justified by the context.
- 3.2 Broadcasting Service Providers shall not broadcast programmes which contain abusive treatment or invective language to any natural or legal person.
- 3.3 Broadcasting Service Providers shall ensure that no programme is broadcast which contains information which the Broadcasting Service Provider knew, ought to have known, or would have discovered through reasonable investigation to be an incorrect, misleading or false invective about any natural or legal person or any event.
- 3.4 Where a Broadcasting Service Provider discovers that despite its reasonable endeavours a false or incorrect invective or misleading information about a person has been broadcast, the Broadcasting Service Provider shall take steps as soon as is practicable to broadcast a correction of the information which may include an apology to any person about whom the incorrect, false or misleading information was broadcast.
- 3.5 Broadcasting Service Providers shall not broadcast outside of the Watershed, any material which, taking into account the context, condones or glamorises violent or dangerous behaviour and is likely to encourage others to imitate such behaviour.
- 3.6 Broadcasting Service Providers shall avoid broadcasting material which portrays cruelty to persons or animals unless editorially justified.
- 3.7 Broadcasting Service Providers shall ensure in any broadcast which contains demonstrations of exorcism, the occult, the paranormal, divination or practices related to any of such activities that purport to be real (as opposed to entertainment), that such material is treated with due objectivity, does not contain life-changing advice directed at individuals and is not broadcast outside of the Watershed.
- 3.8 Broadcasting Service Providers shall not transmit content which endorses self-harm or suicide or which contains details of methods concerning same.

Application to subscription services

- 3.9 Rules 3.5 and 3.7 shall not apply to optional packages or premium content broadcast within subscription services, provided that the Broadcasting Service Provider informs the adult subscriber of the nature of the programming, that it may not comply with all

provisions of the Code and that adequate parental control mechanisms have been implemented.

4. Crime

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

- 4.1 Broadcasting Service Providers shall not broadcast material which is reasonably likely to encourage or incite the commission of a crime or to lead to civil disorder.
- 4.2 Descriptions or demonstrations of criminal techniques which contain essential details which could enable the commission of crime shall not be broadcast unless editorially justified.
- 4.3 Broadcasting Service Providers shall not act in any way that might jeopardise the detection, investigation and prevention of crime, endanger lives, or prejudice the success of attempts to deal with crime.
- 4.4 Broadcasting Service Providers shall not transmit any programme, information or other material which endangers any aspect of the national security of the Republic of Trinidad and Tobago.

5. Race or Ethnicity

Objective: To ensure that programmes are not broadcast which involve any derogatory treatment of persons on the basis of the race or ethnic group to which they belong and to treat all groups with due impartiality.

- 5.1 Broadcasting Service Providers shall not broadcast any programmes which contain of derogatory racial or ethnic labels, save where justifiable by the context.
- 5.2 Broadcasting Service Providers shall not broadcast any programmes which contain statements which derogate or negatively stereotype individuals on the basis of race or ethnicity, when such statements imply that all individuals possess the same negative traits solely on the basis of race or ethnicity. This rule shall not apply to programmes which are solely satirical.

6. Religion

Objective: To ensure that material is not broadcast which involves derogatory treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination and which does not result in the exploitation of the audience

- 6.1 Broadcasting Service Providers shall not broadcast any programmes which contain derogatory statements targeted towards the religious views and beliefs of those persons belonging to a particular religion or religious denomination, or persons who follow no religious doctrine, save where justifiable by the context.
- 6.2 Broadcasting Service Providers shall ensure that no programme is broadcast which seeks to promote religious views or beliefs by stealth through concealing the religious views of the makers, sponsors or hosts of the programme, or through presenting its support for specific religious beliefs, certain facts, theories, or opinions as though such opinions are purely disinterested, scientific, or representative of a consensus.
- 6.3 Broadcasting Service Providers shall ensure that any religious programmes transmitted are accompanied by disclaimers so as to mitigate the improper exploitation of any susceptibilities of the audience.

7. News and Public Affairs

Objective: To ensure that broadcasts of news and current affairs, in whatever form, contain content reported with accuracy, balance and due impartiality.

- 7.1 Broadcasting Service Providers shall endeavour to ensure that broadcasts of newscasts, including 'Breaking News', in whatever form, contain content which is reported with accuracy, fairness, balance, and is presented with due impartiality.
- 7.2 Broadcasting Service Providers shall ensure that analysis and opinion, including personal views or authored programmes, are clearly identified as such so as to be easily distinguishable from entirely factual news presentations.
- 7.3 Broadcasting Service Providers shall endeavour to ensure that where news broadcasts contain significant errors, such errors are acknowledged and corrected as soon as is reasonably practicable.
- 7.4 Broadcasting Service Providers shall ensure that no news programmes are broadcast in which a politician holding office, or a candidate for elections is used as a newsreader, interviewer or reporter.

7.5 Broadcasting Service Providers shall ensure that where the subjects of a news report are identified that every reasonable attempt has been made to ascertain the accurate biographical information so as to prevent misidentification.

8. Elections

Objective: To ensure that where broadcast material relates to political matters during the period of elections, such broadcasts present a sufficient range of information, views and opinions in a balanced manner to enable the audience to make informed political decisions.

8.1 Where a Broadcasting Service Provider chooses to broadcast material relating to reporting of elections, it shall develop and publish its own internal rules and guidelines relating to the coverage of elections which shall at a minimum provide for the following:

- i. During the period of elections, Broadcasting Service Providers of news or current affairs programmes shall ensure that in the course of broadcasting such content, the reporting of the political campaigning and elections process contained within provides a reasonable opportunity for political parties and persons contesting local or general elections to have their views, positions and opinions aired.
- ii. Broadcasts relating to discussion and analysis of election issues must end at midnight on the night preceding the opening of polling stations.
- iii. The results of any opinion poll on polling day itself should not be broadcast until the election poll closes.
- iv. Broadcasts must not contain any content in which candidates and representatives of candidates act as news presenters, interviewers or presenters of any type of programme during the election period.

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

9. Fairness

Objective: To ensure that Broadcasting Service Providers avoid unfair treatment of individuals or organisations.

9.1 Broadcasting Service Providers shall avoid unfair treatment of individuals or organisations in relation to contributions made to programmes.

10. Privacy

Objective: To ensure that Broadcasting Service Providers respect the privacy of individuals in programmes and in connection with obtaining material included in programmes.

- 10.1 An individual's privacy shall not be infringed, unless warranted, in any broadcasts, or in connection with obtaining any material included or to be included in any broadcast.
- 10.2 In conducting all activities associated with the provision of broadcasting services, Broadcasting Service Providers are expected to observe and comply with the constitutional right of the individual to respect for this private and family life as well as all applicable data protection laws and/or privacy laws.

11. Information, Warnings and Audience Protection

Objective: To ensure that viewers and listeners are afforded adequate protection against harmful programmes and are given information and warnings about broadcasts of programming that contains any material that is capable of causing harm.

- 11.1 Broadcasting Service Providers shall warn or advise viewers in advance and intermittently throughout the programme when broadcasting material containing scenes of extraordinary violence or graphic reporting on sensitive subject matters. Warnings and advice should be given when broadcasts contain programming which includes mature subject matter, scenes with nudity, sexually explicit material, coarse or offensive language, or other material which is likely to cause harm. This Rule is without prejudice to the limitations on the broadcast of such material contained in other parts of the Code.
- 11.2 When statements which potentially breach any provision of this Code are made by third parties (for example callers to call-in programmes), the Broadcasting Service Provider should ensure that a correction or apology is made and that the inappropriateness of such statements is clearly made known to the offending party, and all other potential third parties. Where the third party persists with the objectionable conduct, the Broadcasting Service Provider should take the necessary steps to curtail the contribution of the offending party (for example terminate the call).
- 11.3 Broadcasting Service Providers shall take precautions to reduce harm to viewers who suffer from the medical condition of photosensitive epilepsy.

12. Advertising, Sponsorship and Promotional Programming

Objective: To ensure that in the scheduling of broadcasts, primary programming content and advertising are kept distinct so that members of the public are not confused; to ensure that advertising pressures do not compromise the integrity of information provided by the Broadcasting Service Provider; to prevent misleading information being given to the public in the course of broadcasts; and to ensure that advertising within broadcasts does not cause unnecessary harm.

- 12.1 Broadcasting Service Providers shall use their best endeavours to ensure that advertising material within a programme is clearly distinguishable from the primary programme content.
- 12.2 Where a broadcast contains promotional programming, or a programme is commercially sponsored, the Broadcasting Service Provider shall ensure that this fact is clearly indicated.
- 12.3 Broadcasting Service Providers shall ensure that there is no influence by advertisers, sponsors or promoters, or the perception of such influence, on broadcasts which relate to the reporting of news or current affairs, which must be accurate, balanced, and objective.
- 12.4 Broadcasting Service Providers shall ensure that any advertisement which offers a health cure/s includes a disclaimer, if such cures are not based on scientific data and have not been approved by the relevant health authority. If such advertisements are broadcast, the Broadcasting Service Provider shall include a disclaimer stating that the product, remedy or process has not been proven by scientific research to be effective and/or does not have approval from the relevant public health authority.
- 12.5 Broadcasting Service Providers shall ensure that any advertisement which offers educational courses provided in Trinidad and Tobago (including courses provided to persons in Trinidad and Tobago via distance learning or correspondence) includes a disclaimer as to whether the courses have been duly accredited or not and whether the institution has been recognized or registered by the relevant authorities.
- 12.6 Broadcasting Service Providers shall ensure that broadcasts outside the Watershed contain no advertising of alcohol and tobacco.
- 12.7 Broadcasting Service Providers shall take all reasonable steps to avoid broadcasting advertisements that contain statements or claims that are false or misleading.
- 12.8 The Rules in the Code which apply to general programming shall equally apply to advertisements, sponsorships and promotional programming.

Application to subscription services

- 12.9 Rule 12.6 shall not apply to advertising in optional packages or premium content broadcast by subscription Broadcasting Service Providers provided that the Broadcasting Service Provider informs the adult subscriber of the nature of the programming, that it may not comply with all provisions of the Code and that adequate parental control mechanisms have been provided by the Broadcasting Service Provider.

13. Broadcasting Service Providers' Internal Policies

Objective: To ensure that broadcasting services are provided to the highest standards through the introduction and implementation by Broadcasting Service Providers of internal policies, processes and procedures which are consistent with broadcasting best practices and comply fully with the Code.

Preparation and Submission of Internal Policy for Non-Objection

- 13.1 Every Broadcasting Service Provider shall, within six (6) months of the promulgation of the Code, produce and submit to the Authority for its non-objection, a written policy document setting out the internal policies, processes and procedures (its "Internal Policy") that the Broadcasting Service Provider proposes to implement within its broadcasting business to ensure compliance with the Broadcasting Code. The Internal Policy must at a minimum be consistent with the Rules contained in the Code and best broadcasting industry practice, and must to the reasonable satisfaction of the Authority be adequate to ensure the Broadcasting Service Provider's compliance with the Code, and that effective and appropriate measures will be undertaken by the Broadcasting Service Provider to address any instances of non-compliance.
- 13.2 Upon the promulgation of the Code, any Broadcasting Service Provider may be required to produce and have their Internal Policies approved by the Authority before commencing provision of broadcasting services to the public.
- 13.3 The Authority, upon the provision of prior written notice, may require the Broadcasting Service Provider to make such changes to its Internal Policy as the Authority reasonably considers necessary to implement the Code, such changes are to be made within a reasonable timeframe provided by the Authority and the document resubmitted for the Authority's non-objection.
- 13.4 Failure by a Broadcasting Service Provider to submit its Internal Policy for non-objection within the timeframe provided, or to make any change required by the Authority within the timeframe provided, shall constitute a material breach of the Broadcasting Code.

Where such failure persists for a period of three (3) months from the date on which the submission is due, or from the date on which the Authority has stipulated that the change is to be submitted, the Authority shall recommend to the Minister the suspension of the Broadcasting Service Provider's concession and licences until such time as the Internal Policy has been amended and submitted to the Authority for its non-objection. Such recommendation shall be without prejudice to any other right of action available to the Authority under the Code or the Act.

- 13.5 Subject to any non-objection by the Authority, the Broadcasting Service Provider shall comply with the provisions of its Internal Policy at all times in the provision of broadcasting services.

Matters to be included in Internal Policy

- 13.6 The Internal Policy shall specify measures to be implemented by the Broadcasting Service Provider to ensure compliance with each Rule of the Code. 13.7 Such Policy shall contain procedures and processes for the receipt and handling of complaints by members of the public regarding possible breaches of the Code, notifications by the Authority of possible breaches of the Code, including the applicable internal sanctions or measures to be taken by the Broadcasting Service Provider to address any breaches of the Code by the Broadcasting Service Provider or any person acting on its behalf.
- 13.8 Without prejudice to the generality of the foregoing, the Internal Policy shall provide for:
- a. The engagement of adequate, properly trained staff by the Broadcasting Service Provider, and continued training of the Broadcasting Service Provider's staff to ensure that the persons involved in the provision of broadcasting services are competent to conduct their duties in a manner consistent with the Code.
 - b. The assignment of tasks and responsibilities to appropriately qualified and experienced staff as well as the provision of adequate supervision to ensure responsible decision making consistent with the provisions of the Code.
 - c. The implementation of business processes which support compliance with each Rule contained in the Code.
 - d. The establishment and proper use of appropriate technical systems to support compliance with the Code.
 - e. The implementation of the Internal Policy in a manner which will ensure that all staff are aware of the Internal Policy and the Code, are aware of the requirement to comply with the Internal Policy and the Code, and are also aware that sanctions for non-compliance are effective and fully implemented.

- f. Procedures for addressing complaints submitted to the Broadcasting Service Provider in accordance with the Code, within no more than twenty-one (21) days of submission of the complaint or such longer period as may be approved by the Authority in writing.

Publication of Internal Policy

- 13.9 The Broadcasting Service Provider shall maintain a copy of the Internal Policy for viewing by members of the public at its primary place of business, any other place at which the Broadcasting Service Provider conducts business with the public and on any website or electronic media maintained by the Broadcasting Service Provider, and shall provide a copy to any person upon request, subject to the payment of a reasonable fee in respect of any copying costs. The Authority may also publish any or all Broadcasting Service Providers' Internal Policies on its website or in such other manner which the Authority considers appropriate.

Audit of Internal Policy Implementation

- 13.10 The Broadcasting Service Provider shall provide to the Authority upon request such of its records as may be required by the Authority to verify and confirm the Broadcasting Service Provider's implementation of its Internal Policy.

4. COMPLIANCE WITH THE CODE

4.1 General

- 4.1.1 The power of the Authority to implement and enforce the Code is derived from the Act particularly sections 3, 18 and 23 and from concessions granted to providers of broadcasting services.
- 4.1.2 The Authority will, in discharging this responsibility, consider and investigate complaints regarding broadcasting conduct and shall implement its own monitoring systems to identify instances of possible non-compliance with the Code.
- 4.1.3 Pursuant to the provisions of section 23 of the Act, each concession for the provision of a broadcasting service shall contain a requirement that the concessionaire must adhere to the Broadcasting Code promulgated pursuant to the Act. The failure by a concessionaire to comply with the provisions of the Code may therefore constitute a material breach of the terms and conditions of a concession which is an offence pursuant to section 65 of the Act and is tantamount to veritable grounds for the termination or suspension of the concession by the Minister, acting on the recommendation of the Authority.
- 4.1.4 Condition D8 of every concession granted to a provider of broadcasting services provides that “The concessionaire shall at all times in the provision of the Broadcasting Services comply with the provisions of the Broadcasting Code promulgated in accordance with the Act.”
- 4.1.5 Pursuant to section 18(1) (*h*) of the Act, the Authority also has the responsibility to implement and enforce the provisions of the Act and the policies and regulations made under the Act, which includes the Code. Each concession also requires that concessionaires comply with the lawful directions of the Authority. The Code therefore contains the attendant power for the Authority to give directions to concessionaires in order to compel compliance with the Code.
- 4.1.6 In the context of breaches of the Broadcasting Code, in the determination of the appropriate sanction to be pursued, it is incumbent on the Authority to determine whether the particular breach represents a material breach of the concession granted to the Broadcasting Service Provider. The Authority may view a breach of the Code as a correlative material breach of the Broadcasting Service Provider’s concession where the said breach satisfies any of the following conditions:
- a. the breach is both serious and deliberate or reckless;
 - b. the breach constitutes a breach of Rule 4.4;

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- c. the breach is one of several breaches committed by the Broadcasting Service Provider during a relatively short period of time, thereby evincing an evident disregard by the Broadcasting Service Provider of the need to ensure compliance with the Code; or
 - d. the breach constitutes a failure to comply with a lawful direction of the Authority
- 4.1.7 Consistent with the above outline, a system, as set on in Section 4.4 on warnings and sanctions on breach of Code will be implemented which seeks to apply sanctions based on the frequency and/or seriousness of the particular breach.
- 4.1.8 The Code also embraces a co-regulatory approach to enforcement and as such the enforcement provisions seek to ensure that before the Authority makes a decision to impose sanctions of any kind upon a Broadcasting Service Provider, the Broadcasting Service Provider has had an opportunity to address the issue, and if appropriate make redress for any breaches that may have been committed, consistent with internal policies, procedures and processes approved by the Authority. The Authority shall therefore take into account in its determination of any sanctions, the steps taken by the Broadcasting Service Provider, and any redress offered.
- 4.1.9 The Authority also recognises the importance of receiving feedback from the media regarding its enforcement of the Code. Accordingly, in addition to ensuring that adequate opportunity is afforded to the Broadcasting Service Provider whose conduct may be investigated in connection with a possible breach of the Code, the Authority may also, where appropriate in accordance with the following seek the opinion of the Media Complaints Council regarding certain enforcement actions which may be taken by the Authority under the Act in respect of breaches of the Code.

4.2 Complaints about Broadcasting Content

Making a Complaint

- 4.2.1 The Authority shall establish, by publication in the Gazette and in one (1) daily newspaper in general circulation in Trinidad and Tobago, procedures for the submission of complaints regarding the compliance by any Broadcasting Service Provider with any provision of the Code. The Authority may at any time amend or modify the Broadcast Content Complaints Handling Procedures established in accordance with this Code. Such amendment is to be effected by the same procedure undertaken for promulgating the Code.
- 4.2.2 Subject to 4.3.4 below, a person who wishes to make a complaint in relation to the broadcast of any content which may not comply with the provisions of the Code shall

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submit their complaint to the Broadcasting Service Provider, which shall address the complaint in accordance with the Broadcasting Service Provider's Internal Policy. The Broadcasting Service Provider shall provide to the Authority within seven (7) days of receipt, a copy of the complaint where it is submitted in writing, or a written summary of the complaint where the complaint is made orally.

- 4.2.3 Where the relevant Broadcasting Service Provider has not produced and published an Internal Policy, the complaint shall be made to the Authority in accordance with the Broadcasting Content Complaints Handling Procedures.

4.3 Consideration of Potential Breaches

- 4.3.1 The Authority shall, in such instances where it discovers through its monitoring activities that a potential breach of the Code has been committed, or where a complaint is received which identifies conduct which may be a breach of the Code, proceed to consider and determine whether a breach of the Code has been committed through the process outlined in 4.3.3 below.

- 4.3.2 For those offences which require judicial determination, a ruling of a court of competent jurisdiction shall serve as the basis for the finding of a breach of the Code. In such an instance the Authority will communicate its finding in accordance with 4.4 below.

- 4.3.3 The Authority shall write to the Broadcasting Service Provider giving notice that the Authority is considering the content of a broadcast in the context of a potential breach of the Code, providing at a minimum the following:

- a. Particulars of the alleged breach, setting out the time at which the offending material was broadcast. Where the complaint was submitted to the Broadcasting Service Provider and forwarded to the Authority under section 4.2.2 above, the particulars shall comprise a reference to the communication from the Broadcasting Service Provider under the cover of which the complaint was forwarded to the Authority.
- b. Particulars of the provisions of the Code which the conduct is alleged to have breached.
- c. Particulars of the concession to which any breach would apply.
- d. Particulars of the possible sanctions which might be relevant to the alleged breach, having regard to section 4.4 below.
- e. A request for a recording of the content broadcast for an appropriate period (if not already provided to the Authority) containing the offending content.

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- f. An invitation to the Broadcasting Service Provider to make any representations to the Authority in accordance with section 4.4.3 below.
- g. Any requests for further information required for the Authority's investigation, making reference to the provisions of the Act, any Regulations or authorisation under which the request for information is being made.
- h. A statement that the Broadcasting Service Provider should conduct such internal investigations in accordance with the provisions of its Internal Policy and that the results of such investigations, and any measures taken by the Broadcasting Service Provider to address any breach identified will be taken into account in the Authority's consideration of the alleged breach and the sanctions to be applied by the Authority in the event that the Broadcasting Service Provider is found to have breached the Code.
- i. An outline of the process for consideration of any alleged breaches as well as an estimated timeline of the process.

4.3.3 The invitation (see section 4.3.2 (f.)) to the Broadcasting Service Provider to make representations to the Authority regarding the alleged breach shall be made in accordance with the following:

- a. Where the alleged breach is one to which sanctions under any of tiers 1, 2 or 3 of section 4.4.3 would apply, the Broadcasting Service Provider shall be entitled to make representations in writing, which representations must be made by the Broadcasting Service Provider within fourteen (14) days of the Authority's letter, or any longer time provided by the Authority for so doing, whether at the request of the Broadcasting Service Provider or the Authority's own initiative.
- b. Where the alleged breach is one to which sanctions under any of tiers 4, 5 or 6 of section 4.4.3 may apply, or the breach is one in respect of which the Authority considers that the discretion set out in section 4.4.5 applies, the Authority shall so indicate in its letter. The Broadcasting Service Provider may in such instance make any written representations within twenty eight (28) days of the Authority's letter and may in such written representations request that the Authority convene a hearing at which further representations can be made by the Broadcasting Service Provider to the Authority. The Broadcasting Service Provider may also request at this time that the Authority seek the opinion of the Media Complaints Council as outlined below, prior to the making of its decision.
- c. A hearing requested under (b) above shall be held within forty-two (42) days of a request to do so and shall be presided over by a panel of not more than three (3)

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persons drawn from the Board or staff of the Authority as the Authority considers appropriate. The panel may be assisted by such persons as the Authority considers appropriate having regard to the matters being considered. The Broadcasting Service Provider shall be entitled to have legal representation at any such hearing. The hearing shall be convened by the Authority giving no less than twenty one (21) days advance notice in writing of the date of the hearing. The notice shall state:

- i. The date(s) on which the hearing shall take place;
 - ii. The location, which shall ordinarily be the offices of the Authority;
 - iii. The panel members;
 - iv. The format which the hearing will take; and,
 - v. The timeframe within which skeleton arguments (if required) and any other documents should be submitted to the Authority in advance of the hearing.
- d. The Authority may invite any other interested party to make representations, but shall ensure that the Broadcasting Service Provider is given a reasonable opportunity to respond to any representation made to the Authority by any such person.
- e. Representations by the Broadcasting Service Provider should include, where applicable, the findings of any internal investigation of the alleged breach that was undertaken by the Broadcasting Service Provider, and any steps taken by the Broadcasting Service Provider pursuant to its Internal Policy to address the alleged breach.
- f. The Authority may obtain a report from any expert in respect of the alleged breach, however in such case the Broadcasting Service Provider shall be given a reasonable opportunity to consider the report and make representations on any matter contained in it.
- g. Where a request has been made for the Authority to seek the opinion of the Media Complaints Council, and the Authority in its sole discretion considers it appropriate to do so having regard to section 4.5 below, the Authority shall ensure that the Media Complaints Council is given notice of and is permitted to attend and observe any hearings conducted, and receives copies of all written representations made and opinions given to the Authority regarding the potential breach. After receipt of all written and oral representations, the Authority shall make a written request to the Media Complaints Council for its opinion regarding whether or not a breach of the Code has been committed by the Broadcasting Service Provider.

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- h. The Media Complaints Council shall submit its opinion in writing, giving reasons, within fourteen (14) days of the Authority's referral.
 - i. Neither the Authority nor any person on its behalf shall make representations or present arguments at any hearing. The Authority shall in the making of its decision consider the content of the broadcast, any representations made by the Broadcasting Service Provider or any other person invited to do so, any opinions given by the Media Complaints Council under 4.3.4 (f) above, and any expert opinions commissioned by the Authority.
 - j. Where the Authority determines that a breach has been committed by the Broadcasting Service Provider, the Authority shall, in determining the appropriate sanction to be applied, consider any steps taken by the Broadcasting Service Provider pursuant to its Internal Policy in respect of the content broadcast. Where the Authority considers that the steps taken by the Broadcasting Service Provider in respect of the breach are sufficient to achieve the objectives of the Code relevant to the breach committed, the Authority may determine that none of the sanctions under section 4 below should be applied in respect of the breach.
- 4.3.4 The decision of the Authority shall be communicated to the Broadcasting Service Provider in writing in accordance with section 4.4 below.
- 4.3.5 The Authority may, in the exercise of its discretion, extend the time period for the making of any representations or doing of anything set out in this section 4.3.

4.4 Warnings and Sanctions for Breach of the Code

- 4.4.1 As stated above, warnings and sanctions for breach of the Code will be administered according to a tiered system. The principles applied by the Authority in the determination of whether or not a particular breach is a material breach of concession require an approach which treats with breaches on the basis of the seriousness of the breach and the extent to which a particular Broadcasting Service Provider repetitively breaches the Code. Further, the Authority considers that this approach ensures that Broadcasting Service Providers receive fair warning of breaches of the Code and thereby enables them to implement proper compliance measures before being subjected to the more punitive sanctions. It also assists in ensuring that any sanction applied is fair and proportionate to the breach.
- 4.4.2 Where the Authority decides, based on its considerations under section 4.3 above, that a breach has been committed but that the Broadcasting Service Provider has taken adequate measures to address the breach, in the context of the objective breached and the best interests of the public, the Authority shall notify the Broadcasting Service Provider in

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writing of its decision including the decision that no further sanction is appropriate, and shall publish a copy of the notice on its website and send a copy of the notification to the Media Complaints Council.

4.4.3 The following system of warnings and graduated sanctions will be applied for breaches of the Code once the Authority has determined, based on the process outlined in section 4 above, that a warning or sanction is appropriate. The system starts with the issuance of a written warning and progresses to sanctions which increase in severity, from the 1st to the 6th breach, according to the number of offences taking place within the previous twelve (12) month period, on an ascending scale, subject to the caveats set out in sections 4.4.4 through 4.4.9.

(1) **1st Breach: 1st Warning**

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

(2) **2nd Breach: 2nd Warning**

The Authority will notify the Broadcasting Service Provider in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a 2nd Warning. The Authority shall also publish the notice on its website and submit a copy of the notification in writing to the Media Complaints Council.

(3) **3rd Breach: Public Warning**

- i. The Authority shall notify the Broadcasting Service Provider in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a Public Warning;
- ii. The Authority shall publish the notification on its website and submit a copy of the notification in writing to the Media Complaints Council; and,
- iii. The Broadcasting Service Provider shall be directed by the Authority to broadcast a notice of the Authority's decision, in the form directed by the Authority, at such intervals (not exceeding a one (1) minute notice, broadcast once every three (3) hours for a period of twenty-four (24) hours) as the Authority shall direct.

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- iv. Where this warning is applied in respect of a breach which has occurred in the same programme as two or more of the previous breaches, the Authority may direct the Broadcasting Service Provider to take such steps as the Authority reasonably considers necessary to minimise the likelihood of future breaches occurring. The Broadcasting Service Provider shall be given a reasonable period of time to implement such changes, and shall suspend its broadcast of the offending programme until such time as the Broadcasting Service Provider has implemented the necessary steps to the reasonable satisfaction of the Authority.

(4) **4th Breach: Suspension**

- i. The Authority shall, under section 30(1) of the Act, recommend to the Minister the suspension of the concession for a period of up to two (2) weeks.
- ii. The Authority shall publish on its website and in no less than one daily newspaper in general circulation in Trinidad and Tobago a notice containing details of the breach and the sanctions applied.

(5) **5th Breach: Further Suspension**

- i. The Authority shall, under section 30(1) of the Act, recommend to the Minister the suspension of the concession for a period of up to six (6) weeks, having regard to the seriousness of the breach.
- ii. The Authority shall publish on its website and in no less than one daily newspaper in general circulation in Trinidad and Tobago a notice containing details of the breach and the sanctions applied.

(6) **6th Breach: Termination**

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

- 4.4.4 For the purpose of determining the applicable level of warning or sanction for a particular breach, the Authority will consider all breaches that have occurred within the twelve (12) month period ending with the date on which the breach under consideration was committed.

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- 4.4.5 For breaches of a serious nature, the Authority may apply a sanction which is more punitive than the warning or sanction that would be applied in accordance with 4.4.3 above.
- 4.4.6 The Authority will treat as a particularly serious breach:
- i. any material breach of Rule 2.4, 2.14, 3.1, 4.1 or 4.4 (on which see Section 4.4.10);
 - ii. any breach which is so severe in the extent to which the conduct by the Broadcasting Service Provider goes beyond that which would be acceptable under the Code so that the Authority considers the breach to be indicative of a wanton disregard by the Broadcasting Service Provider for the provisions of the Code;
 - iii. any breach of the Code which also amounts to an offence pursuant to any law of Trinidad and Tobago (other than the Telecommunications Act Chap 47:31) for which a prison sentence is prescribed as the punishment;
 - iv. any breach of a lawful direction of the Authority in respect of compliance with the Code.
- 4.4.7 In determining the sanction to be applied in the exercise of discretion under section 4.4.5, the Authority shall have regard to the relative seriousness of the breach, the degree of harm caused or likely to be caused by the breach. Notwithstanding section 4.4.4, the Authority may also take into account any breaches by the concessionaire which have been determined by the Authority to be particularly serious in accordance with section 4.4.6.
- 4.4.8 Where the Authority considers that a sanction provided by 4.4.3 for a particular breach is unduly severe, having regard to all the circumstances of the breach, it may apply such warning or lesser sanction as it considers appropriate. In the exercise of this discretion the Authority shall consider:
- i. the seriousness of the breach that was committed;
 - ii. the extent to which appropriate systems had been put in place by the Broadcasting Service Provider to ensure compliance with the Code;
 - iii. the steps taken by the Broadcasting Service Provider to address the breach and to provide relief to any person harmed by the breach;
 - iv. the extent to which the particular provision calls for the exercise of judgment on the part of the Broadcasting Service Provider, and the extent to which that judgment was exercised reasonably.

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- 4.4.9 Where a Broadcasting Service Provider commits a breach of Rule 3.4, the Authority shall apply sanctions for such breach as the Authority considers appropriate having regard to all the circumstances, and the need for the Authority to ensure that no Broadcasting Service Provider is permitted to act in a manner which may prejudice the national security of the Republic of Trinidad and Tobago. The provisions of sections 4.3.2 and 4.3.4 shall not apply to any breach of Rule 3.4, and the offending Broadcasting Service Provider shall have recourse only to the protections set out in the Act.
- 4.4.10 Where the Authority exercises its discretion under section 4.4.5, 4.4.8 or 4.4.9, it shall provide its reasons for so doing together with the notification of breach.
- 4.4.11 In addition and notwithstanding the above the Authority may also where it considers it appropriate, having regard to the breach committed, commence proceedings against the concessionaire for the commission of an offence under section 65 of the Act, or any other applicable provision. The Authority would generally commence proceedings only where a breach is serious, reckless or where a Broadcasting Service Provider demonstrates disregard for the Code by committing repeated breaches of the Code.

4.5 Role of the Media Complaints Council

- 4.5.1 The Media Complaints Council is a media industry formed and funded body incorporated to enforce the Code of Practice adopted by the media, and in particular the membership of the Trinidad and Tobago Publishers and Broadcasting Service Providers Association. As outlined above, the Authority may consult with the Media Complaints Council in relation to potential breaches of the Code. Such consultation shall be at the discretion of the Authority.
- 4.5.2 The Authority may require that any member of the Media Complaints Council who is affiliated with the Broadcasting Service Provider that is the subject of any reference by the Authority to the Media Complaints Council under the Code, or an entity which is affiliated or associated with that Broadcasting Service Provider, be recused from any involvement in the deliberations of the Media Complaints Council in relation to the matter which is referred to the Council.
- 4.5.3 Prior to any change in the membership of the Media Complaints Council the [Secretary of the Media Complaints Council] shall advise the Authority in writing, providing full particulars of the proposed members. Such particulars shall include the qualifications and experience of the members of the Council as well as the relevant information concerning any affiliation to any entity involved in the broadcasting sector. If in the opinion of the Authority the person's background or affiliations are likely to result in bias or the appearance of bias in the opinions or recommendations given to the Authority by the Media Complaints Council, the Authority shall be entitled to object in writing to such

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person's involvement in the consideration of matters relating to the Code either on a general or a case by case basis. Notwithstanding same, should any of the proposed members have an affiliation to any entity involved in the broadcasting sector, such affiliation should not preclude the individual from becoming a member of the Media Complaints Council but rather, that member should be recused from any such matters which would involve the determination of an issue involving said entity. The Media Complaints Council shall comply with any such objection by the Authority in its operations relating to the Code. For the avoidance of doubt, the Authority's objections shall not prevent the person from being a member of the Media Complaints Council, or from taking part in deliberations which are unrelated to the Code or the Authority's administration of the Code.

- 4.5.4 At any time, and only in response to a request from all or a majority of the Broadcasting Service Providers, may the Authority may appoint an alternative body to replace the Media Complaints Council to undertake the performance of the roles set out for the Media Complaints Council in this document. Such appointment shall only be made where the Authority is of the reasonable opinion, based on representation made by all or a majority of the Broadcasting Service Providers, that such body would better represent the interests of Broadcasting Service Providers. The Authority shall undertake a process of consultation with all Broadcasting Service Providers and shall take into account representations made by the Broadcasting Service Providers, prior to making any such appointment.

5. THE GUIDELINES

A. USE OF THE GUIDELINES

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

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

Broadcasting Service Providers are reminded of the legislative background that has informed the development of the Rules, the Objectives that apply to each clause and the definition of certain terms which may be relevant in interpreting and applying the Code. No Rule should be read in isolation but within the context of the whole Code including the headings, cross references, and these Guidelines.

Every complaint or case will be determined on its merits, according to the individual facts pertaining to such case or complaint. Broadcasting Service Providers are required to ensure that all the material they transmit complies with the Code and that they have adequate systems and procedures in place to ensure compliance.

B. GUIDELINES

General Guidelines

1. Where it is necessary to classify content for the purpose of determining appropriate target audiences for specific programs, Broadcasting Service Providers shall be guided by any prevailing and existing frameworks for content classification and rating.

In the absence of a national framework, the Broadcasting Service Provider shall publish its classification and rating scheme and adhere to such internal framework.

In considering matters under the Code, the Authority shall be guided by decisions of a competent court.

2. In interpreting the definitions set out below, the following will be taken into consideration: :

“Due impartiality”: “Due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. “Due” also refers to the adequacy or appropriateness to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.

“Matters of political or industrial controversy”: Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example, non-governmental organisations, relevant CARICOM institutions, etc. (See definition of “Due impartiality” above).

“Personal view”: Such opinions may be expressed by a person who is a member of a lobby group and is campaigning on the subject; or they may be the “authored” view of a journalist, commentator, or academic with professional expertise or a specialisation in an area which enables them to express their own viewpoint, which is not necessarily main stream.

Guidelines to Rule 1 – General Rules

Rule 1.1 requires that Broadcasting Service Providers must at all times operate within the laws of the Republic of Trinidad and Tobago. With respect to other provisions of the Code this may relate, but is not limited to legislation any existing and relevant legislation on children, sedition, sexual offences, summary offences, intellectual property, defamation, unfair competition, telecommunications and consumer protection.

Without prejudice to the generality of Rule 1.1, Broadcasting Service Providers should specifically operate within the provisions of all intellectual property laws of Trinidad and Tobago, and should always ensure they have secured the proper authorization from the owners of any intellectual property relating to any material or content which is broadcast.

Guidelines to Rule 2 – Protection of Children

The Rules in Clause 3: Harm, Abuse and Discrimination are also intended to protect children and therefore Clauses 2 and 3 should be read conjunctively.

Recognizing that programmes produced specifically for and marketed to children reach impressionable minds, Broadcasting Service Providers shall select material aimed at children with due care when setting programming schedules. This does not mean that the vigour and vitality common to children's imaginations and love of adventure should be removed, but programmes should be based upon sound social concepts.

Guidelines to Rule 2.1

Material unsuitable for children

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

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

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

Providing information on programming allows parents to make informed choices about the suitability of material in programmes before they are aired. Broadcasting Service Providers are required to protect children and young persons from exposure to unsuitable material by the use of advisories and warnings as well as appropriate scheduling. The Rules in Clause 11 relating to Information and Warnings must therefore be read in conjunction with the Rules in Clause 2.

Guideline to Rule 2.2

The “Watershed” period is the period between 22:00 and 05:00. Material which is not suitable for children may be broadcast within this time period only. Outside of this time frame, only such material which is suitable for all ages shall be broadcast.

It is important for Broadcasting Service Providers to understand that compliance with the Watershed does not mean that every adult programming should start at the beginning of the Watershed but that there should be a gradual transition towards very adult material late at nights.

Broadcasting Service Providers are also reminded that pornographic content is not to be included at any time on free-to-air radio and television or the general audience package of subscription Broadcasting Service Providers.

Rule 2.2 also applies to the content of advanced publicity contraining pre-Watershed trailers which must be appropriate for the time of broadcast.

Broadcasting Service Providers should, in addition to observing the Watershed, consider the listening patterns of their target audience, and the wider public in determining appropriate scheduling of material.

Guidelines to Rules 2.3 - 2.5

The way profanity is addressed under the Code depends on a number of factors including the frequency of use and the context. Use of the most common expletives, or profane language in even milder forms (when used frequently) is strictly prohibited outside the Watershed. The broadcasting of less offensive explicit terms outside the Watershed may be justified only where it is essential to the audience’s understanding or to the dramatic development of character or story-line, and is infrequent.

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In any event, Broadcasting Service Providers should take all reasonable steps to redact or edit instances of obscenities, even less explicit language, when used outside of the Watershed period in order to ensure that the frequency of use of such is minimised.

Guidelines to Rules 2.6

Programming with themes that could invite children to imitate dangerous acts which they see on screen (or hear on radio), such as the use of matches, use of household products which could be dangerous if mishandled, should be treated in a responsible manner. Similarly, the use of dangerous substances should not be encouraged, although this does not prevent these themes being handled in an educational or moral way. In assessing the extent to which depictions of violence are explicit, gratuitous and/ or realistic the Broadcasting Service Provider should take into account the realism of the portrayal with particular regard to visual elements of blood and carnage. Where a broadcast contains content which may raise concerns in this regard, the Broadcasting Service Provider should ensure that appropriate warnings are given in accordance with Clause 11.

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

More specifically, Broadcasting Service Providers should ensure that material broadcast outside of the Watershed does not contain realistic scenes of violence which minimizes or trivializes the effects of violent acts. Any realistic depictions of violence should portray in human terms the consequences of that violence to its victims and perpetrators. When a Broadcasting Service Provider does broadcast a programme which contains violent or graphic content outside of the Watershed period, an appropriate warning should be given before such content is broadcast in accordance with Clause 11.

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

Guidelines to Rules 2.7 - 2.11

It is unacceptable to portray children in a sexual fashion. Exceptions may be made in the case of programmes with a legitimate educational purpose, provided that there is good justification for the material broadcast and that the portrayal is not explicit. In cases where the matter is treated

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with, the portrayal must be as limited as possible within the context of the particular programme and must in any event be inexplicit.

Themes such as child abuse or incest should be treated with utmost sensitivity and suitable warnings should be provided prior to airing. Where broadcasts deals with such topics, the Broadcasting Service Provider should also provide information on relevant help-lines. Material of this nature should be treated with the utmost care and sensitivity by Broadcasting Service Providers, bearing in mind the potential psychological effects it might have on child-victims.

Programming with sexually explicit material must not be broadcast outside the Watershed. Any pre-Watershed portrayal of sexual behaviour or discussion of sexual behaviour is not acceptable unless there is a legitimate educational purpose. In the case of any discussion on or portrayal of less explicit behaviour, this must be justified by the context and the Broadcasting Service Provider must be able to demonstrate reasonable editorial judgement. Limited and inexplicit nudity may be acceptable within an appropriate context, particularly when presented in an informative, indigenous or medical context without any underlying sexual or erotic themes.

Concomitantly, where any contentious content which is broadcast outside of the Watershed, and by virtue of appropriate context and sound scheduling and editorial judgment, does not breach one of these Rules, Broadcasting Service Providers would be prudent in utilising warnings pursuant to Clause 11.

Regardless of the editorial judgment permitted in relation to this Rule, no pornographic content should be included at any time, whether within or outside the Watershed. Pornographic content is defined in the Code and essentially, the definition relates to the nature and purpose of the depiction of sexual activity.

For the avoidance of doubt, sexually explicit and/or pornographic material, violence, and offensive language may include explicit descriptions contained within programming schedules and guides.

Guidelines to Rule 2.12

Programmes or broadcasts which display plays, skits, presentations, songs and other performances that are satirical in nature shall not be treated to be in breach of the rule 2.12 provided that the satirical intent is clear to any reasonable person and must be such that the satirical content is obvious to any reasonable person.

Similarly, programmes where such practices are incidental to traits of a character may not be subject to restriction, once the other considerations outlined in Clause 2 are appropriately facilitated.

Guidelines to Rule 2.13

Consent is required where a person under the age of eighteen (18) years is a significant participant in a programme. It is instructive to note however that such consent is not required where a person just happens to be in the background and is not an individual contributor.

Broadcasting Service Providers should have regard to the particular susceptibilities of younger persons and should not deliberately put them into positions where they will be upset. Broadcasting Service Providers should exercise responsible judgement as adults even where the child's parent or guardian is apparently willing to place their child in a dangerous or uncomfortable position. In any instance, children must not be caused unnecessary distress or anxiety by their involvement in broadcast programmes.

Broadcasting Service Providers should be alert to the possibility that a caller contributing to a call-in programme which is targeted to current affairs and social issues may be under the age of eighteen (18) years. Where a Broadcasting Service Provider suspects that a caller to such programmes may be under the age of eighteen (18) years, the Broadcasting Service Provider should take reasonable steps to ascertain the person's age before proceeding with the call.

Guidelines to Rules 2.14 - 2.15

Broadcasting Service Providers are reminded that the statutory provisions which prohibit the identification of victims of sexual offences or juvenile offenders are also specifically applicable to them.

Guidelines to Clause 3 – Harm, Abuse and Discrimination

Clause 3 must be read in conjunction with Clause 2 as the Rules are designed to provide appropriate protection for adults as well as for children, from harmful, abusive or discriminatory material.

The Broadcasting Service Providers have a responsibility to take steps to ensure that in providing their services, the audience is provided with adequate protection from material that has the potential to be harmful, abusive or unduly discriminatory.

In their station programming, Broadcasting Service Providers should apply policies that oppose and attempt to fetter prejudice on the basis of ethnicity, race, gender, sexual preference, religion, age, physical or mental ability, occupation, cultural belief or political affiliation. The last two criteria shall not apply to talk shows or specific (non-series) features where the presenters may reasonably be expected to take partisan positions.

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In Clause 3, harm refers to psychological harm which may be the result of material or comment that is gratuitously abusive. It may be also caused by the display of images of physical harm or cruelty particularly when children are likely to be part of the viewership.

Guidelines to Rule 3.1

It is the duty of Broadcasting Service Providers to avoid the broadcast of any abusive or unduly discriminatory material or comment.

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

Statements that may be classified or interpreted as abusive or discriminatory in nature may be deemed permissible on the following grounds:

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

It is important to note that Rule 3.1 does not prohibit criticism or commentary on potentially sensitive matters. The prohibited actions are those references which contain language that is abusive or unduly discriminatory.

Humorous or satirical programmes shall not be treated to be in breach of the rules on ‘Harm, Abuse and Discrimination’ provided that the humorous or satirical intent is clear to any reasonable person. This exception does not however subsume the instance/s of the use of threats toward any individual or group¹.

Any reference in humorous or satirical programming to race, national or ethnic origin or any of the matters referred to in Rule 3.1, must be such that the humorous or satirical content is unequivocally evident to any reasonable person.

¹ Summary Offences Act, Section 50

Guidelines to Rule 3.2

Broadcasting Service Providers should take all reasonable steps, before broadcasting information about any person or event, to ensure that the information provided is accurate. Further to this, Broadcasting Service Providers should abstain from presenting information in a manner which is likely to mislead viewers and listeners. Where the Broadcasting Service Provider has taken such steps, and inaccurate or misleading information is inadvertently broadcast, the Broadcasting Service Provider has a responsibility to quickly and effectively correct the error and provide accurate information where appropriate. In the case of information which is re-broadcast, a correction made by the source of the programming which is also re-broadcast by the Broadcasting Service Provider is adequate.

The Authority will consider any breaches of this provision in the context of whether the inaccurate or misleading information was broadcast as a genuine mistake after having taken prudent steps to ensure accuracy, in which case no breach will have been committed

It should be noted that an additional remedy is available for circumstances falling within the ambit of this Rule, that is, the Authority can require a Broadcasting Service Provider to correct inaccurate or misleading information.

Guidelines to Rule 3.4

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

Guidelines to Rule 3.5

Broadcasting Service Providers must not broadcast material that directly or indirectly condones dangerous or seriously antisocial behaviour which is likely to encourage others to imitate or emulate such behaviour. Broadcasting Service Providers can use their judgment to intervene or put alternative viewpoints should a guest or caller say something which apparently condones such behaviour, for example criminal behaviour, inappropriate sexual behaviour, or drug use. In

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any instance, where such material is broadcast, it should be accompanied by a warning pursuant to Clause 11.

Guidelines to Rule 3.6

It is noted that this Rule may not apply to news items or documentaries dealing with this issue or to dramatic presentations, provided that such depictions are limited to the extent necessary to achieve the aims of the programme and that no person or animal has been harmed for the purpose of producing the programme.

Material which displays cruelty should be avoided by Broadcasting Service Providers unless it is contained in news items, documentaries or dramatic presentations, and caution should be taken to ensure that adequate warnings are given.

Guidelines to Rule 3.7

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

In either case, such demonstrations must not contain advice that is considered as “life-changing”, and such material should not be broadcast outside of the Watershed.

Guidelines to Clause 4 – Crime

Clause 4 is to be read together with Clause 7 on News and Public Affairs.

Guidelines to Rule 4.1

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

A “crime” is an offence under the common law or statute law of Trinidad and Tobago that is punishable by a fine or a term of imprisonment. Similarly, “Disorder” refers to the breakdown of peaceful and law-abiding public behaviour that may lead to or provoke the commission of crime.

Guideline to Rule 4.2

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

Guidelines to Rule 4.3

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

Guidelines to Clause 5 – Race & Ethnicity

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

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

Guidelines to Rule 5.1

Any reference to a specific racial or ethnic group should involve the use of neutral adjectives. Broadcasting Service Providers should express particular sensitivity to the use of such terms when referring to the major racial or ethnic demographic groups that form part of the constituent population of Trinidad and Tobago.

Guidelines to Clause 6 – Religion

Guidelines to Rule 6.1-6.2

The use of derogatory terms and labels in referring to individuals and groups within the society who belong to religious groups or such individuals and groups who follow no religion must be avoided.

Guidelines to Rule 6.3

Religious programmes should avoid attempting to influence the audience, by preying on their fears and susceptibilities. This does not suggest that beliefs such as heaven, the afterlife and similar beliefs should not be shared, but that improper advantage should not be taken, for example, to secure material gain on the part of the producers of the relevant programme. In the

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instance where any such content is broadcast, where relevant, Broadcasting Service Providers should include a disclaimer which notifies the audience that the views, opinions and content of the programme are those of the authors and contributors do not reflect those of the Broadcasting Service Provider and that the claims contained within the broadcast have not been proven by scientific research

Where a Broadcasting Service Provider transmits religious programmes containing claims that a living person or group has special powers or abilities, such claims must be treated with due objectivity. If such claims are aired, the Broadcasting Service Provider shall include a disclaimer stating that the claim has not been proven by scientific research. In this regard, the term “living person” does not apply to deities and the belief held by some religious groups that any deity is living.

Guidelines to Clause 7 – News and Public Affairs

Guidelines to Rule 7.1

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

If audiences are to trust Broadcasting Service Providers as reliable and trustworthy sources of information, it is important that news is presented accurately. Therefore, Broadcasting Service Providers should ensure the accuracy and impartiality of their news reporting.

Broadcasting Service Providers should ensure that background to news, news analysis, and opinion are based, as appropriate, on the most reliable scientific data and expert opinion. While Broadcasting Service Providers are entitled to editorial opinion, they have a responsibility to observe due impartiality in all matters of a controversial nature. In this regard, they must base their news, news background, news analysis and opinion on the most reliable scientific data. At all times, the Broadcasting Service Provider should comply with best practices in journalism and broadcasting.

Broadcasting Service Providers must ensure that news broadcasts are not be used as a conduit for making editorial comments, unless appropriately labelled.

Furthermore, Broadcasting Service Providers must ensure that they have adequate evidence, in accordance with best journalism practices, to support the accuracy of news broadcasts produced by the Broadcasting Service Provider. Where the Broadcasting Service Provider obtains and re-broadcasts news from other producers the Broadcasting Service Provider should take all reasonable steps to ensure the accuracy of the information broadcast.

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When statistics are reported in the news, such statistics should be presented in a manner which accurately reflects trends and existing conditions. In all instances, the source of the statistics which are broadcast must be stated. Broadcasting Service Providers must avoid misusing statistics, or presenting statistics out of context or in a misleading fashion, so as to mislead to public or to skew discussion, debate or analysis to unduly support or discredit a particular viewpoint. In reporting of statistics whether pertaining to crime, or other current affairs, there is potential for the stating of statistics in a manner that does not accurately represent the underlying information or facts. Broadcasting Service Providers should avoid the occurrence of this practice through the use of responsible editorial judgment.

Guidelines to Rule 7.2

Broadcasting Service Providers should make a clear distinction between news analysis and opinion and regular news.

Programmes geared towards a narrow audience such as political or religious programmes and editorial opinion should be clearly labelled as such, and editorial opinion should be kept distinct from regular news presentations. Broadcasting Service Providers should therefore ensure that analysis and opinion, including personal views or authored programmes, are clearly labelled accordingly so as to be easily distinguishable from entirely factual news presentations.

Provided that the producer and host(s) of talk shows and call-in programmes clarify to the audience, by appropriate means, that they are partial to a particular viewpoint, ideology, or have a particular political allegiance, such talk shows and call-in programmes shall be exempted from the requirement to be impartial and balanced. The exceptions to the requirement of objectivity and balance are hence political or special interest opinion or programmes geared towards a narrow audience, provided they are labelled accordingly.

Guidelines to Rule 7.3

Where a Broadcasting Service Provider makes a factual mistake in the course of broadcasting news which contains content pertaining to current affairs, and immediate correction is not possible, corrections should be appropriately scheduled, as far as practicable, to reach the same audience which originally received the misinformation.

Guidelines to Rule 7.4

In ensuring that news are presented with due impartiality, it is important that Broadcasting Service Providers avoid the use of currently-active politicians as presenters on news programmes. Generally, the term “politician” includes a Minister of Government, a Member of Parliament, Senator, Alderman, Mayor, Councillor, an executive member of a registered political party as well as a candidate or prospective candidate for any national or local election.

Guidelines to Rule 7.5

Broadcasting Service Providers are expected to exercise a degree of responsibility and sensitivity in reporting the names, addresses or any other biographical information of victims of crime, accidents or tragedy. Such sensitivity may also extend to accused persons and witnesses of crimes. Broadcasting Service Providers are also reminded of their obligation to comply with the laws relating to identification of criminal offenders who are juveniles and victims of sexual offences.

Guidelines to Rule 8 – Elections

Clause 8 applies to the coverage of elections during the period of elections. Broadcasting Service Providers have no obligation to undertake election coverage, however those who elect to do so must develop and submit to the Authority a set of internal rules and guidelines which contain at a minimum the Rules outlined in Clause 9.

The Rules in Clause 8, in particular those relating to matters of major political or industrial controversy and major matters relating to current public policy apply to the coverage of elections.

Guidelines to Rule 8.5

Broadcasting Service Providers must identify political advertisements and political broadcasts as such, at the beginning and end of the broadcast.

Guidelines to Rule 9 – Fairness

Guidelines to Rule 9.1

The aim of Clause 9 is to ensure that where persons consent to making a contribution to a programme, whether expressly or by implication, they do so only after disclosure is made to them of the relevant details concerning the nature and purpose of the programme as well as any future use of the material. Any exception to Rule 9.1 must be justified in the public interest.

Reference to “contribute” may include an interview, live or recorded or a report of a written or oral statement or comments.

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

1. Except when the subject matter is trivial or their participation minor, they should normally, at an appropriate stage be informed in advance or made aware of:

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- i. the nature and purpose of the programme and be given a clear explanation of why they were asked to contribute and when (if known) and where it is likely to be first broadcast;
- ii. what kind of contribution they are expected to make, for example, live, pre-recorded, interview, discussion, edited, unedited, etc.;
- iii. the areas of questioning and, wherever possible, the nature of other likely contributions, and the identity of other contributors, if any;
- iv. any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness;
- v. the nature of their contractual rights and obligations and those of the programme maker and Broadcasting Service Provider in relation to their contribution; and
- vi. if offered, an opportunity to preview the programme be provided with clear information.

Taking such measures is likely to result in the consent proffered being ‘informed consent’ (referred to in Clause 9 and the rest of the Code as “consent”).

It may be fair to withhold all or some of this information where it is justified in the public interest or under other provisions of Clause 9.

2. Broadcasting Service Providers should ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose that is subsequently used in a programme for another purpose or used in a later or different programme, does not create unfairness. This applies both to material obtained from others and the Broadcasting Service Provider's own material.
3. Before broadcasting a factual programme, including programmes examining past events, Broadcasting Service Providers should take reasonable care to satisfy themselves that:
 - i. material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
 - ii. in order to present a balanced view, an individual or organization that may have a differing interest or perspective will be afforded an opportunity to contribute.
4. Programmes, such as dramas and factually-based dramas should not portray facts, events, individuals or organisations in a way which is unfair to an individual or organisation.

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In the implementation of Rule 9.1, Broadcasting Service Providers should be guided by the practices outlined below. In interpreting and implementing these practices, Broadcasting Service Providers should further note the following:

- (i) The requirement of informed consent is considered to be of primordial importance when dealing with young persons (under the age of eighteen (18)) and persons over the age of eighteen (18) who may not have the capacity to give consent either because of mental disability or emotional distress and trauma. In the case of persons under the age of eighteen (18), consent may be given on their behalf by a parent, guardian or a person in loco parentis who must be over the age of eighteen (18) years. In the case of the latter, consent should be given by a person with primary responsibility for their care. In any event, persons who are not in a position to give consent should not be asked for views on matters that are likely to be beyond their capacity to provide an appropriate or informed response;
- (ii) Fairness should also be upheld by honouring guarantees to contributors with respect to content of a programme, particularly with respect to anonymity, confidentiality and in affording, so far as is reasonably possible, the right of reply to persons against whom allegations of wrongdoing or incompetence or other significant allegation has been made in a programme;
- (iii) An individual or organization has the right to refuse to make a comment or participate in a programme but the refusal of an individual or organization to take part, need not normally prevent the programme from going ahead. It is however essential that the Broadcasting Service Provider exercises fairness in clearly indicating that the individual or organization has chosen not to appear and to give the explanation offered by such person or organization, in such circumstances where to do otherwise would be unfair to the individual or organization; and
- (iv) The views of an individual or organization that is not participating in a programme must be presented in a fair manner.

It should be duly noted that the “practices to be followed” by Broadcasting Service Providers, as outlined below constitute only a generalized and non-exclusive list of recommendations, and adherence to these practices may not in all cases obviate the commission of a breach of Clause 9.

Practices

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- i. Broadcasting Service Providers and programme makers shall be fair in their dealings with potential contributors and contributors to programmes unless it is justified in the public interest or under other Clauses of this Code. When a programme is edited, contributions shall be presented fairly.
- ii. Where a programme includes a contribution from a vulnerable person who by reason of ill health, mental or physical disability or otherwise is not in a position to reasonably give consent, their guardian or other person with primary responsibility for their care should provide consent on their behalf.
- iii. Guarantees given to contributors, for example relating to the content of a programme, confidentiality or anonymity shall be honoured unless justified.
- iv. If a programme alleges wrongdoing or incompetence or makes other significant allegations, the Broadcasting Service Provider should, so far as is reasonably possible, seek comments from the person against whom the allegation has been made.
- v. Where a person approached to contribute to a programme chooses to make no comment or refuses to appear in a broadcast, the Broadcasting Service Provider shall make clear that the individual concerned has chosen not to appear and shall give the explanation given by the individual for not appearing, where to do otherwise would be unfair to the individual.
- vi. Where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner.
- vii. Broadcasting Service Providers should not use deception to obtain information, audio or film unless either it is warranted in the public interest, or the material is for entertainment purposes and the consent of all the identifiable participants has been obtained prior to broadcast.

Guidelines to Rule 10 – Privacy

In relation to Clause 10 on the protection of the privacy of individuals, Broadcasting Service Providers should at all times observe and respect the rights enshrined under Section 4 of the constitution of the Republic of Trinidad and Tobago, and in particular, the right of the individual to respect for his private and family life, as well as the General Privacy Principles set out in Section 6 of the Data Protection Act, 2011.

Guidelines to Rules 10.1

In the implementation of Rule 10.1, Broadcasting Service Providers should be guided by the practices outlined below. In interpreting and implementing these practices, Broadcasting Service Providers should note the following principles:

- (i) Infringement of the privacy of an individual or organization in a programme or in connection with the obtaining of material included in a programme must be warranted or done with the consent of the individual or organization which should

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be given prior to the programme or material being broadcast. This means that an infringement of privacy is warranted if Broadcasting Service Providers are able to demonstrate that in the particular circumstances of the case, it is in the public interest and that the public interest outweighs the right to privacy.

(ii) Privacy is least likely to be infringed in a public place and property that is privately owned can be a public place if readily accessible to the public. Some activities and conditions may be of such a private nature that filming even in a public place, could involve an infringement of privacy. Examples would include a child in a state of undress, someone with a disfiguring medical condition or the footage of a suicide attempt.

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

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

It should be duly noted that these “practices to be followed” by Broadcasting Service Providers constitute only generalized and non-exclusive list of recommendations, and following these practices may not in all cases avoid a breach of Rule 10.

Practices

- i. Programmes which disclose a person’s contact details or location of an individual's home or family shall not be broadcast without that person’s permission, unless it is warranted in the public interest to do otherwise.
- ii. Broadcasting Service Providers shall respect the right to privacy of individuals in the coverage of events in public places, unless it is warranted to infringe upon that right. This applies both to the time when these events are taking place and to any later programmes that revisit those events. This practice will be subject to the reasonable expectation of persons that there may be public coverage.
- iii. Any infringement of privacy in the making of a programme should be with the individual’s and/or organisation’s consent or be otherwise warranted.
- iv. If the broadcast of a programme would infringe the privacy of an individual or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Callers to phone-in programmes are deemed to have given consent to the broadcast of their contribution.
- v. If an individual or organisation's privacy is being infringed, and they request that the filming, recording or live broadcast is stopped, the Broadcasting Service Provider shall do so, unless it is warranted to continue.

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- vi. When filming or recording in institutions, organisations or other agencies, permission shall be obtained from the relevant authority or management, unless it is warranted to film or record without permission. Individual consent of employees or others whose appearance is incidental or where they are essentially anonymous members of the general public, will not normally be required.
- vii. Broadcasting Service Providers shall not broadcast recordings of the actions or words of private individuals in public places, when such recordings would result in humiliation, embarrassment, or in public opprobrium to such individuals. This practice shall not apply to public figures, in whose behaviour citizens may reasonably be expected to have an interest. (See Interpretation of Terms for meaning of “public figure”.)
- viii. People who are in a state of distress should not be placed under pressure to take part in a programme to provide interviews unless it is warranted.
- ix. Broadcasting Service Providers use all reasonable efforts to avoid the broadcast of the name, image or any other form of identification of a person who has died or of victims of accidents or violent crimes unless it is confirmed that the next of kin has been informed of the event, unless it is warranted. In instances where such identification is warranted, Broadcasting Service Providers shall observe due sensitivity.
- x. Broadcasting Service Providers shall as far as possible, seek to reduce the potential distress to victims and relatives when making or broadcasting programmes intended to examine past events that involve trauma to individuals, unless it is warranted to do otherwise. This applies to dramatic reconstructions, factual dramas as well as factual based programmes.
- xi. Information which is already legitimately in the public domain is not subject to the Practices to be followed under Rule 10 (i).

Guideline to Rule 10.2

Broadcasting Service Providers should observe the General Privacy Principles outlined in Section 6 of Data Protection Act in relation to all broadcasting related activities. In this regard, particular attention should be paid to the General Privacy Principles as they relate to news and current affairs programming content. As such it is useful to read Rule 9 in conjunction with Rule 6 on News and Current Affairs.

In relation to the collection of information in the production of news and current affairs programming special attention should be paid General Privacy Principle (c). The Broadcasting Service Provider’s Internal Policy produced pursuant to Rule 13 should, at minimum, contain adequate provisions to comply with the General Privacy Principles.

Guidelines to Rule 11 – Information, Warnings and Audience Protection

The stipulations contained in Rule 11 should be read together with the Rule 2 on Child Protection and Scheduling. In catering to the needs and tastes of differing groups of listeners and

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viewers, the Broadcasting Service Provider must pay particular attention to its obligation to protect children and young persons and observe the Rules on Watershed and appropriate scheduling.

Guidelines to Rule 11.1

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

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

In addition, Broadcasting Service Providers may implement a profanity delay as a method of a safeguard mechanism to be employed for both radio and television broadcasting.

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

Suggested wordings for advisories and warnings are as follows:

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

"The following programme contains sexually explicit material intended for adult audiences. Viewer discretion is advised."

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

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

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

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

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

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

Guidelines to Rule 11.3

Warning and advisories should be broadcast before every programme containing material which may potentially trigger seizures for people with photosensitive epilepsy. Photosensitive epilepsy is a form of epilepsy in which seizures are triggered by visual stimuli that form patterns in time or space, such as flashing lights, bold, regular patterns, or regular moving patterns. Therefore broadcasts which may include visual stimuli such as rapidly flashing lights, rapidly changing or alternating images, or bright flashes of light alternating with darkness should contain the requisite advisory notice.

Suggested wording for advisories and warnings are as follows:

"The following programme contains material which may potentially trigger seizures for people with photosensitive epilepsy. Viewer discretion is advised."

Guidelines to Rule 12 – Advertising

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

Broadcasting Service Providers shall have regard to the legal framework of the Code and are reminded that broadcast advertising must comply with all other relevant laws.

Guidelines to Rules 12.1

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

Broadcasting Service Providers are therefore required to make a clear separation between formal advertising and programming so that viewers and listeners are able to identify the disparity between advertisement and factual based programming. Commercial messages within a newscast should therefore be acknowledged as such and should not be read by the newsreader. If this is not feasible, commercial segments should be clearly indicated e.g. by the newsreader saying at the

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start of the segment “We now pause for some commercial messages” and at the end, “That was a commercial message.”

Guidelines to Rule 12.2 -12.3

Sponsored programmes must be clearly identified by the name and/or logo of the sponsor at the beginning and/or end of the programmes.

Rules 12.2 and 12.3 may not apply in such cases where the sponsorship relationship is not evident and as such the Broadcasting Service Provider is unaware and could not reasonably be expected to be aware or to have made itself aware, of such sponsorship.

Guidelines to Rules 12.4 – 12.5

Advertising should be truthful and not misleading in nature and particular attention must be paid by Broadcasting Service Providers to compliance with the provisions of the Food and Drugs Act, Chap. 30:01 relating to the advertisement of health cures as well as the requirements of the Accreditation Council of Trinidad and Tobago Act, Chap. 39:06 relating to education and training services.

It is the responsibility of the Broadcasting Service Provider to ascertain whether the claims made in an advertisement are in fact based on scientific evidence and in such circumstances where they are not, the advertisement must include a disclaimer which reflects such fact, in accordance with the requirements of Rule 11.4.

Guidelines to Rule 12.6

The Rule is meant to treat with advertisements that explicitly display or represent the use of alcohol or tobacco products. Advertisements which impliedly refer to the products or through tangential inference are not to be affected by this Rule.

Notwithstanding the above, this Rule does not absolve the Broadcasting Service Providers from adhering to the requirements of Rule 2.1 which treats with Protection of Minors as it relates to advertising to Children. Further to this, in accordance with Rule 1.1, Broadcasting Service Providers are required to comply with the stipulations of the Tobacco Control Act, Chap. 30:04

Guidelines to Rule 12.7

Broadcasting Service Providers have a general responsibility to ensure that advertisements do not contain statements that are false or misleading and should as far as possible seek verification or substantiation of claims about advertised products or services from advertisers or advertising

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agencies. With respect to the advertisement of health cures and educational courses/programmes, the Broadcasting Service Provider has particular obligations concerning substantiation of claims and accreditation, as outlined hereinabove.

Guidelines to Rule 12.8

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

Guidelines to Rule 13 – Broadcasting Service Providers’ Internal Policies

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

Compliance with the Code will not be achieved unless Broadcasting Service Providers put in place effective internal policies, procedures and processes to ensure compliance. These should include but is not limited to all matters from the hiring and training of appropriate staff, to the conduct of staff and engagement of other resources of the Broadcasting Service Provider in providing the broadcasting service, to sanctions and corrective measures to be taken by Broadcasting Service Providers to address breaches of the Code which may occur from time to time.

Guidelines to Rules 13.1 through 13.4

These Rules provide for the process of submission for approval of Internal Policies by the Broadcasting Service Provider to the Authority, to ensure that the policies are consistent with the Code and achieve, to the reasonable satisfaction of the Authority, the goal of ensuring that the provision of broadcasting services are consistent with the provisions of the Code.

The Broadcasting Service Provider’s role is to design Internal Policies that achieve its business objectives and are consistent with its organisational culture and methods, while satisfying the Authority of its ability to effectively incorporate the provisions of the Code into its daily operations in conducting its broadcasting service. The Authority shall upon request of the Broadcasting Service Provider offer guidance in relation to the measures that would be expected or appropriate to achieve compliance with the Code. The Authority will also endeavour to provide reasonable opportunities for a Broadcasting Service Provider to correct any shortcomings of its Internal Policy in order to ensure that each Broadcasting Service Provider

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is able to continue operations, or to commence operations, in a manner that is consistent with the provisions of the Code.

It is intended that all existing Broadcasting Service Providers, will submit their draft Internal Policy to the Authority for its non-objection within six (6) months of the promulgation of the Code. All changes or modifications to such Internal Policies to ensure compliance with the Code will be duly completed within one (1) year of the Code coming into force.

No Broadcasting Service Provider will be permitted to operate past the transition periods above, without having prepared and implemented such Internal Policies which the Authority deems to be acceptable. In the event that the Broadcasting Service Provider fails to meet the above requirements, a recommendation will be made for the suspension of the concession of any Broadcasting Service Provider who has failed (through its own fault or delay) to secure the Authority's non-objection of its Internal Policy.

A new Broadcasting Service Provider will be required to produce and obtain non-objection of its Internal Policy from the Authority before commencing provision of broadcasting services. This will be achieved by the inclusion of the Internal Policy in the relevant Concession as a Commencement of Service condition.

Guidelines to Rule 13.8

The Authority's on-going monitoring of all concessionaires will include periodic reviews of the implementation by Broadcasting Service Providers of their approved Internal Policies.