



# **A Draft Broadcasting Code for the Republic of Trinidad and Tobago**

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**THE BROADCASTING CODE  
INTRODUCTION**

# **1 INTRODUCTION**

## **A. PURPOSE**

The Telecommunications Authority of Trinidad and Tobago is a statutory body formed by the Telecommunications Act 2001 (the “Act”). The Authority is set up by 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 radiomagnetic 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 regulate the provision of broadcasting services consistently with section 4 and 5 of the Constitution of the Republic of Trinidad and Tobago and to guide the development of a broadcasting sector which is likely to safeguard, enrich and strengthen the national, social, cultural and economic well being of the society. The Authority must regulate in a manner which is objective, transparent and non-discriminatory.

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

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

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cultural standards. The need is for broadcasting to be conducted in a manner which exercises the freedom of expression but also recognises and does not unduly infringe the other rights which exist.

### B. OBJECTIVES

The objectives outlined in the Code are:

- To ensure that children are neither harmed nor misled by the transmission of inappropriate and/or inaccurate material;
- To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful, abusive or discriminatory material;
- To ensure that material likely to encourage or incite the commission of crime or to lead to disorder is not included in broadcasting services;
- To ensure that programmes do not involve any abusive treatment of persons on the basis of the racial group to which they may belong and to treat all groups with due impartiality;
- To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality;
- To ensure that political broadcasting during the period of an election presents a sufficient range of information views and opinions, as well as facts, so that they can make well-informed political decisions;
- To ensure that broadcasters avoid unjust or unfair treatment of individuals or organizations;
- To ensure that broadcasters respect the privacy of individuals in programmes and in connection with obtaining material included in programmes;
- To ensure that viewers and listeners are given adequate information or warning about programming that contains any material that is capable of offending viewers or listeners;
- To ensure that news content and advertising are kept distinct:

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- so that members of the public are not confused,
- to ensure that advertising pressures do not compromise the integrity of information provided by the broadcaster,
- to prevent misleading information being given to the public, and
- to ensure that advertising does not cause unnecessary harm or offence;.
- To ensure that programmes do not involve any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination and that there is no improper exploitation of any susceptibilities of the audience for such a programme.

### **C. SCOPE**

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

The Code seeks to address:

- broadcasters' responsibilities towards the family, children and the community;
- observance of standards with respect to the treatment of violence, crime, drugs, sex, news, current affairs and advertising; and,
- fairness in dealing with controversies, personal attacks, politics and religion.

The Code also outlines procedures for receiving complaints and for redress.

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

The Code prescribes specific standards for broadcasting services in relation to a number of issues including the following:

- Protection of children
- Harm, abuse and discrimination

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- Crime
- Race
- Due Impartiality and due accuracy in the reporting of news
- Election coverage
- Fairness and privacy
- Information and warnings
- Advertising and sponsorship
- Religion

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 by subscription broadcasters. Notwithstanding this, it remains important to ensure that persons are able to select a range of programming which complies with the provisions of the Code so that parents are able to control material accessed by children and young persons, and also to ensure that certain fundamental rights are not infringed in subscription broadcasting.

Accordingly, while 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 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 broadcaster in Trinidad & Tobago, and all channels carried pursuant to a “must carry” obligation in the broadcaster’s concession.

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 broadcaster 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.

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

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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, seeking 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 September and October 2008 conducted six 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.

The comments received during the second consultation round are set out in the Decisions on Recommendations (DOR) Matrix contained in Annex 2 to this document. 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 more restriction. Persons generally felt that more was needed to ensure that children were not exposed to unsuitable content. Certain religious groups were concerned that the parts which prohibited attacks against other religions would represent an unreasonable fetter on their freedom of expression, though these comments were often contrasted with the views of other religious groups which felt that such protection was needed.

The key areas in which broadcasters felt that changes were needed were the clause on Harm and Offence which broadcasters considered too wide and limiting on freedom of expression and the clauses on News and Current Affairs and on Elections which were considered an unreasonable limitation on freedom of the press. Broadcasters 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.

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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 limited justifiable under a Code of this nature.

Based on the comments received, the Authority revised 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 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 that advice was published for further comments on 15<sup>th</sup> December 2008. Comments were to be submitted to the Authority in writing by no later than 23<sup>rd</sup> January 2009.

The comments received during the final round of consultation process are set out in the Decisions on Recommendations (DOR) Matrix contained in the Annex 1 to this document. While the quantity of comments received was less than in previous rounds due to the nature of the consultation, comments were received on all parts of the document and the Authority has revised the document where appropriate to take into account those comments. Some significant changes have been made to better address the issues which relate to subscription broadcasting, and to include more comprehensive requirements in relation to news and current affairs. Based on a suggestion by a stakeholder the Authority has also introduced a requirement for broadcasters who transmit news and current affairs to publish their internal practices and procedures, which must be consistent with the Code. The Authority has also sought to clarify the language used in certain provisions of the Code and to revise definitions based on comments received.

The Authority will now forward the document to the Minister of Public Administration for promulgation in accordance with section 79 of the Act. Once the Code is promulgated the Authority will “establish” the final Guidelines by publication on its website. The Authority wishes to thank all stakeholders who have participated in the consultation process for their assistance in the Authority’s creation of the Code and Guidelines.

## 2 HOW TO USE THE CODE AND GUIDELINES

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

**Rules** are those provisions with which broadcasters must comply, and are set out in Part C of the Code. Breach of a Rule is a breach of the Code, for which the Authority may impose sanctions in accordance with the Code. The **Objectives** will be used as an aid to the proper interpretation of the Rules where required. 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 of the package of documents 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 sought 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 Telecommunications Act 2001.

Section 5 of this package of documents contains the **Broadcasting Code Guidelines** (“the **Guidelines**”). The Guidelines are intended to assist broadcasters and the public in interpreting the Rules. They should be read in conjunction with the Rules. Failure to follow the Guidelines does not in itself constitute a breach of the Code provided that the broadcaster otherwise complies with the Rules. The Guidelines will be revised by the Authority from time to time as appropriate to ensure that the contextual basis for the Code remains.

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### 3 THE NATIONAL BROADCASTING CODE

REPUBLIC OF TRINIDAD AND TOBAGO

THE TELECOMMUNICATIONS ACT, 2001

THE BROADCASTING CODE

Made pursuant to section 79 of the Telecommunications Act 2001

This document comprises the National Broadcasting Code (hereinafter referred to as “the Code”), made pursuant to the provisions of section 79 of the Telecommunications Act 2001.

#### A. INTERPRETATION OF TERMS

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

“**Abusive treatment**” is the treatment of an issue or individual in a manner that causes injury or gives offence without reasonable justification as outlined in the Code.

“**Adult**” means persons who have attained the age of eighteen (18) years.

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

“**Broadcasting service**” has the meaning given in the Act.

“**Broadcaster**” means a concessionaire authorised to provide a broadcasting service as defined in the Act.

“**Basic package**” refers to the package available within the basic subscription tariff which is geared towards viewing by general audiences.

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“**Children**” refers to persons who have not yet attained the age of eighteen (18) years, and includes “**younger children**”, who have not yet attained the age of fourteen (14) years, as well as “**older children**”, who attained the age of fourteen (14) years.

“**Children’s programme**” and “**younger children’s programme**” refer to programmes that are intended for or targeted at children and younger children respectively.

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

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

“**Due impartiality**” means that there is no significant imbalance of views or opinions aired within coverage of matters of political or industrial controversy or matters relating to current public policy. “Due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. “Due” means adequate or appropriate to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and

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channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.

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

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

**“Life-changing advice”** 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”** refer to matters on which politicians, industry and/or the media are in debate. 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).

**“Optional package”** refers to 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 by the President in accordance with Section 33 of the Representation of the People Act 2:01, and ending with the close of the polls in the relevant election.

**“Personal view/authored programme”** means a programme presenting a particular view or perspective. Personal view programmes can include the outright expression of highly partisan views. Such opinions may be expressed by a person who is a member of a

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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”** includes a minister of government, a member of Parliament, alderman, mayor, councillor, member of the Tobago House of Assembly and during the period of elections also includes 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 content describing or exhibiting explicit sexual activity, intended to stimulate erotic feelings.

**“Programmes included in any service...taken as a whole”** means all programming on a service dealing with the same or related issues within an appropriate period.

**“Public figure”** refers to any person who occupies a position or office through which they regularly interact with citizens personally or through the media, and whose names and/or appearance are known to significant numbers of persons with whom they have no personal relationship.

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

**“Racial group”** means a group of people distinguished from others on the basis of common heritage or common genetically linked physical characteristics.

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

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**“Reasonable person”** is an individual who sensibly exercises qualities of attention, knowledge, intelligence and judgment in a given context without highly biased opinions unsupported by evidence, highly partisan opinions, or extremist beliefs.

**“Religious programme”** A programme which deals with matters of religion or religious traditions as the central subject, or as a significant part of the programme.

**“Scientific data”** means information which is based on research carried out by scientists and which has been published in a peer-reviewed journal.

**“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.

**“Sound social concepts”** are concepts which are based on up-to-date research on psychology and consensus on shared values and accepted standards in Trinidad & Tobago.

**“Subscription service”** means a broadcasting service which is purchased or subscribed to by a user, and a “subscriber” is a person who subscribes to such a service.

**“Telecommunications”** has the meaning given in the Act.

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

**“Watershed”** The watershed is the period outside which, material that is unsuitable for children cannot be broadcast. The watershed commences at 22:00 in the evening and ends at 05:00 on the following morning and therefore material unsuitable for children must not be broadcast outside this period.

## **B. SCOPE AND APPLICABILITY**

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

1.2 A holder of a concession for the operation of a public domestic telecommunications network who provides subscription services over that network shall ensure that it provides to all subscribers of that service, a basic package which shall be subject to the same rules that apply to free-to-air packages. That package shall be provided to all subscribers within the base subscription price, and shall contain, at a minimum, news, including news from a domestic broadcaster in Trinidad & Tobago.

1.3 Optional packages or premium content only available to subscribers at an additional fee are exempted from certain rules in the Code, as stated within the Code. The broadcaster must indicate clearly to subscribers prior to their subscription whether or not the package or content is compliant with the provisions of the Code.

1.4 Subscription service broadcasters must have in place parental control mechanisms and safeguards which are adequate to ensure that subscriptions can only be purchased by adults and to enable subscribers to limit the selection of optional packages and premium content by children.

1.5 The Code contains provisions in respect of which, in determining the content to be included in the broadcasting service, require the broadcaster or its editorial staff 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 editorial qualifications and experience and full knowledge of the provisions of the Code, exercising prudent editorial judgment in the particular circumstances.

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

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established in accordance with this Code, such amendment to be effected in the same manner as establishment.

## **C. RULES**

### **1 Protecting children**

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

#### **Scheduling**

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

“Appropriate scheduling” should be judged according to:

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

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

#### **Language**

1.3 The most offensive language shall not be broadcast outside the watershed.

1.4 Offensive language shall not be broadcast outside the watershed, unless it is justified by the context. In any event, frequent broadcast of offensive language outside the watershed must be avoided.

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

#### **Violence**

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

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

1.8 Younger children's programmes shall deal carefully not gratuitously, with themes which could threaten their sense of security.

1.9 Children's programmes on television shall deal carefully with themes which could invite children to imitate dangerous or harmful acts which they see on screen.

**Sexual themes**

1.10 Programmes which portray children in a sexual fashion are not acceptable, except where justified in the context of a dramatic or information programme dealing with the specific issue of sexuality, in which case the portrayal must be as limited as possible within the context of the particular programme and must in any event be inexplicit.

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

1.12 Representations of sexual intercourse must not be broadcast outside the watershed (See Interpretation of Terms for explanation of "watershed") unless there is a serious educational purpose. Any discussion or portrayal of sexual behaviour broadcast outside the watershed must be appropriately limited and inexplicit.

**Nudity and pornographic material**

1.13 Nudity on television before the watershed must be justified by the context, appropriately limited and inexplicit. (See Interpretation of Terms for meaning of "context").

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1.14 Pornographic content must not be broadcast at any time.

**Drugs, Alcohol, Solvents and Smoking**

1.15 The use of illegal drugs, the misuse of alcohol, solvent abuse and smoking must not be condoned, encouraged or glamorised in programmes broadcast outside the watershed.

**Participation of children in programmes**

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

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

**Children and crime**

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

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

**Application to subscription services**

1.20 The provisions of rules 1.1, 1.2, 1.3, 1.4, 1.12, 1.13, 1.14, 1.15 and 1.19 shall not apply to optional packages or premium content broadcast by subscription broadcasters provided that the broadcaster informs the adult subscriber of the nature of the programming and the fact that it may not comply with all provisions of the Code, and that adequate parental control mechanisms have been implemented.

## 2 Harm, Abuse and Discrimination

**Objective: To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful, abusive or discriminatory material.**

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

2.2 Programmes shall not contain information about any natural or legal person or any event, which the broadcaster knew, ought to have known, or would have discovered through reasonable investigation to be incorrect or misleading. Where a broadcaster discovers that despite its reasonable endeavours untrue or misleading information has been broadcast, the broadcaster should take steps quickly to broadcast a correction of the information, and shall broadcast an apology to any person about whom the incorrect or misleading information was broadcast. The broadcaster shall transmit the correction and apology at such times and in such a manner as is appropriate to reach as much as possible of the audience that would have seen the original broadcast.

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

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

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

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2.6 If a concessionaire broadcasts violent or graphic content, an appropriate warning shall be given before such content is broadcast in accordance with Rule 9.

2.7 Television broadcasters shall avoid broadcasting material which displays cruelty to persons or animals. This rule shall 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.

2.8 Demonstrations of exorcism, the occult, the paranormal, divination or practices related to any of these that purport to be real (as opposed to entertainment) must be treated with due objectivity and must not contain life-changing advice directed at individuals.

2.9 Details of methods of suicide and self-harm shall not be included in programmes.

**Application to subscription services**

2.10 Rule 2.5 and 2.8 shall not apply to optional packages or premium content broadcast by subscription broadcasters provided that the broadcaster informs the adult subscriber of the nature of the programming and the fact that it may not comply with all provisions of the Code, and that adequate parental control mechanisms have been implemented.

### **3 Crime**

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

3.1 Material which is reasonably likely to encourage or incite the commission of crime or to lead to disorder shall not be broadcast.

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

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3.3 Broadcasters shall not act in a way that might prejudice the detection and prevention of crime, endanger lives, or prejudice the success of attempts to deal with crime.

3.4 Broadcasters shall not transmit any programme, information or other material which endangers the security of the Republic of Trinidad and Tobago.

## **4 Race**

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

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

4.2 Broadcasters shall not allow any statements which denigrate or negatively stereotype individuals on the basis of race, when such statements imply that all individuals possess the same negative traits solely on the basis of race. This rule shall not apply to programmes which are solely satirical.

4.3 When statements which offend against Rule 4.1 or 4.2 are made by callers to call-in programmes, the presenter(s) should correct or make clear the inappropriateness of such statements to the callers. (See Interpretation of terms for meaning of “racist”). Where the caller persists with the objectionable conduct, the broadcaster should terminate the call.

4.4 When broadcasting documentaries that treat with matters concerning race, broadcasters should ensure that opportunities are provided for different viewpoints to be included in the broadcast.

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## **5 News and Public Affairs**

**Objective: To ensure that news and current affairs, in whatever form are, reported with due accuracy, balance, and due impartiality.**

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

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

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

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

5.5 Broadcasters must ensure that they have adequate evidence to support the accuracy of news produced by the broadcaster. Where the broadcaster obtains and re-broadcasts news from other producers the broadcaster shall take all reasonable steps to ensure the accuracy of the information broadcast.

5.6 When reporting statistics in the news, such statistics shall be presented in a manner which accurately reflects trends and existing conditions, and the source of the statistics must be stated.

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

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

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5.9 No politician holding office (see definitions for “politician holding office”) may be used as a newsreader, interviewer or reporter in any news programmes.

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

5.11 Within six (6) months of the coming into force of this Code, each broadcaster that carries news or current affairs shall produce and provide to the Authority for its approval, written internal practices and procedures for the reporting of news and current affairs. Such practices and procedures must, at a minimum, be consistent with the rules contained in the Code. Upon approval by the Authority, the broadcaster shall implement such practices and procedures through appropriate training and internal compliance measures. The broadcaster shall maintain a copy of the practices and procedures at all its customary places of business for viewing by members of the public and shall, subject to the levying of a reasonable charge for doing so, provide a copy to any member of the public upon request.

## **6 Elections**

**Objective: To ensure that to the extent that broadcasters cover political matters during the period of elections they present a sufficient range of information, views and opinions, in a balanced manner, to enable viewers to make informed political decisions.**

6.1 During the period of elections, broadcasters of news or current affairs programmes shall ensure that in the course of their reporting of the political campaigning and elections process the broadcaster provides a reasonable and balanced opportunity for all political parties and persons contesting local or general elections to have their views, positions and opinions aired. What is “reasonable”, in terms of time given and number of persons, shall be determined based on the number of seats being contested by each party.

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

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

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

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

## **7 Fairness**

**NOTE:** This clause and the following clause on privacy are different from other clauses of the Code. The clause contains only one Rule, but then sets out “practices to be followed” by broadcasters when dealing with individuals or organisations participating in or otherwise directly affected by programmes as broadcast. Following these practices may not in all cases avoid a breach of this clause. Failure to follow these practices will only constitute a breach of this clause of the Code (See Part D.) where it results in unfairness to an individual or organisation in the programme. The Code does not and cannot seek to set out all the “practices to be followed” in order to avoid unfair treatment.

**Objective: To ensure that broadcasters avoid unjust or unfair treatment of individuals or organisations**

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

### **Practices**

i. Broadcasters and programme makers shall be fair in their dealings with 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 give consent, their

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guardian or other person with primary responsibility for their care should normally give it on their behalf.

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

iv. If a programme alleges wrongdoing or incompetence or makes other significant allegations, the broadcaster should 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 broadcaster shall make clear that the individual concerned has chosen not to appear and shall give the explanation given by the individual for not appearing, if it would be unfair not to do so.

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

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

## **8 Privacy**

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

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

### **Practices**

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- i. Information which discloses a person's contact details or location of a person's home or family shall not be broadcast without that person's permission, unless it is warranted in the public interest to do otherwise.
- ii. When people are caught up in events in any place including a public place, which are covered by the news, broadcasters shall respect their right to privacy in both the making and the broadcast of a programme, unless it is warranted to infringe it. This applies both to the time when these events are taking place and to any later programmes that revisit those events.
- iii. Any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted.
- iv. If the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Callers to phone-in shows are deemed to have given consent to the broadcast of their contribution.
- v. If an individual or organisation's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the broadcaster shall do so, unless it is warranted to continue.
- 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. Broadcasters 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".)

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- 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. Broadcasters shall take care not to broadcast the identity of a person who has died or of victims of accidents or violent crimes unless it is clear that the next of kin has been informed of the event, unless it is warranted.
- x. Broadcasters shall as far as possible, seek to reduce the potential distress to victims and relatives when making or broadcasting programmes intended to examine past events that involve trauma to individuals unless it is warranted to do otherwise. This applies to dramatic reconstructions and factual dramas as well as factual programmes.
- xi. Information which is already legitimately in the public domain is not subject to Practice 8(i).

## **9 Information and Warnings**

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

9.1 Broadcasters shall warn or advise viewers in advance and throughout the programme when broadcasting material which contain scenes of extraordinary violence, or which include graphic reporting on sensitive subject matters. Similarly, warnings and advice should be given when radio or television programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material which is likely to cause offence. This rule does not prejudice the limitations on the broadcast of such material contained in other parts of the Code.

## **10 Advertising and sponsorship**

**Objective: To ensure that programming content and advertising are kept distinct so that members of the public are not confused; to ensure that advertising pressures do not**

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**compromise the integrity of information provided by the broadcaster; to prevent misleading information being given to the public; and to ensure that advertising does not cause unnecessary harm or offence.**

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

10.2 The fact that a programme is sponsored shall be clearly indicated by the broadcaster, except where the broadcaster is unaware and could not reasonably be expected to be aware or to have made itself aware, of such sponsorship.

10.3 Broadcasters shall ensure that there is no influence by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs, which must be accurate, balanced, and objective. This Rule shall not apply in relation to sponsors in cases where the broadcaster is unaware and could not reasonably be expected to be aware or to have made itself aware, of such sponsorship

10.4 Any advertisement which offers health cures must include a disclaimer if such cures are not based on scientific data. (See Interpretation of Terms for meaning of “scientific data”). If such advertisements are aired, the broadcaster shall include a disclaimer stating that the product, remedy or process has not been proven by scientific research to be effective. Broadcasters who do not include such a disclaimer must have readily available in the event of a query from a member of the public or from the Authority, the sources to confirm any such claim.

10.5 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) must include a statement stating whether the courses have been duly accredited or not and whether the institution has been recognized or registered by the relevant authorities.

10.6 There shall be no advertising of alcohol and tobacco outside the watershed.

10.7 Broadcasters shall not broadcast advertising of alcohol or tobacco during children’s programmes.

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

10.9 The rules in the Code which apply to general programming shall equally apply to advertisements and sponsorships.

**Application to subscription services**

10.10 Rule 10.6 shall not apply to advertising in optional packages or premium content broadcast by subscription broadcasters provided that the broadcaster informs the adult subscriber of the nature of the programming and the fact that it may not comply with all provisions of the Code, and that adequate parental control mechanisms have been provided by the broadcaster.

## **11 Religion**

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

11.1 The religious views and beliefs of those persons belonging to a particular religion or religious denomination, or persons who follow no religious doctrine, must not be subject to abusive treatment in material broadcast. (See Interpretation of Terms for meaning of “abusive treatment”).

11.2 Broadcasters shall ensure that religious programmes are not used to abuse another race or religion.

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

11.4 Religious programmes must not seek to promote religious views or beliefs by stealth through concealing the religious views of the makers, sponsors or hosts of the programme, or

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through presenting as support for specific religious beliefs, certain facts, theories, or opinions as though such opinions are purely disinterested, scientific, or representative of a consensus.

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

11.6 Religious programmes that contain claims that a living person or group has special powers or abilities, must treat such claims with due objectivity. If such claims are aired, the broadcaster shall include a disclaimer stating that the claim has not been proven. Broadcasters who do not include such a disclaimer must have readily available in the event of a query from a member of the public or from the Authority, the sources to confirm any such claim.

## **4 COMPLIANCE WITH THE CODE**

### **1 General**

1.1 The power of the Authority to implement and enforce the Code is derived from the Act particularly sections 3, 18 and 23, and from concession documents granted to providers of broadcasting services.

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

1.3 Pursuant to the provisions of section 23 of the Act, each concession for the provision of a broadcasting service, contains a requirement that the concessionaire must adhere to the Broadcasting Code promulgated pursuant to the Act. The failure by a concessionaire to comply with the provisions of the Code may therefore be a material breach of the terms and conditions of a concession which is an offence pursuant to section 65 of the Act, and grounds for the termination or suspension of the concession by the Minister, acting on the recommendation of the Authority.

1.4 The Authority also has, pursuant to section 18(1)(h) of the Act, the responsibility to implement and enforce the provisions of the Act and the policies and regulations made under the Act, which includes the Code. The concessions granted to provide broadcasting services also require that concessionaires comply with the lawful directions of the Authority. The Code therefore includes the power for the Authority to give directions to concessionaires to compel compliance with the Code.

1.5 In the context of breaches of the Broadcasting Code, in deciding the appropriate sanction to be pursued the Authority must determine whether the particular breach represents a material breach of the concession granted to the broadcaster. The Authority is of the view that a breach of the Code will also be a material breach of the broadcaster's concession where the breach satisfies any of the following:

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- a. both serious and deliberate or reckless (egregious);
- b. any of Rule 3.5 (threatens National Security);
- c. one of several committed by the broadcaster during a relatively short period of time, thereby evincing a disregard by the broadcaster for compliance with the Code (repetitive); or
- d. failure to comply with a lawful direction of the Authority (egregious).

1.6 Consistent with the above outline, a system will be implemented which seeks to apply sanctions based on the frequency and/or seriousness of the particular breach.

## **2 Complaints about Broadcasting Content**

### **Making a Complaint**

2.1 The Authority shall establish, by publication in the *Gazette* and in one daily newspaper with circulation in Trinidad and Tobago, procedures for the submission of complaints regarding the compliance by any broadcaster 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 to be effected in the same manner as establishment.

2.2 Any person may make a complaint to the Authority as to broadcasting content in accordance with the Authority's Broadcasting Content Complaints Handling procedures.

### **Corrections**

2.3 Where a complaint is in relation to the failure by the broadcaster to correct information broadcast in an appropriate circumstance the Authority may, without prejudice to the Authority's consideration of the complaint and determination of any breach of the Code, where it considers that a correction should properly have been broadcast by the broadcaster, direct that the broadcaster transmit a correction at such time and in such manner as he may reasonably determine.

## **3 Monitoring and Investigation by the Authority**

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

#### **4 Consideration of Potential Breaches**

4.1 The Authority shall, 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, consider and determine whether a breach of the Code has been committed through the following process.

4.2 The Authority shall write to the broadcaster giving notice that the Authority is considering content 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.
- 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 potential breach, having regard to section 5 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.
- f. An invitation to the broadcaster to make any representations to the Authority in accordance with section 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. An outline of the process for consideration of potential breaches.

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4.3 The invitation (see 4.2, f.) to the broadcaster to make representations to the Authority regarding the potential breach shall be made in accordance with the following:

- a. Where the potential breach is one to which sanctions under any of tiers 1, 2 or 3 of section 5.2 would apply, the broadcaster shall be entitled to make representations in writing, which representations must be made by the broadcaster 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 broadcaster or the Authority's own initiative.
- b. Where the potential breach is one to which sanctions under any of tiers 4, 5 or 6 of section 5.2 may apply, or the breach is one in respect of which the Authority considers that the discretion set out in section 5.5 applies, the Authority shall so indicate in its letter. The broadcaster 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 broadcaster to the Authority.
- 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 a panel of not more than three (3) 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 broadcaster 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,

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- 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 broadcaster is given a reasonable opportunity to respond to any representation made to the Authority by any such person.
- e. The Authority may obtain a report from any expert in respect of the potential breach, however in such case the broadcaster shall be given a reasonable opportunity to consider the report and make representations on any matter contained in it.
- f. Neither the Authority nor any person on its behalf shall make representations or present arguments at any hearing. The Authority's decision shall be based upon the content broadcast, any representations made by the broadcaster or any other person invited to do so, and any expert report commissioned by the Authority.

4.4 The decision of the Authority shall be communicated to the broadcaster in writing in accordance with section 5 below.

4.5 The Authority may extend any time for the making of any representations or doing of any thing set out in this section 4.

## **5 Warnings and Sanctions for Breach of the Code**

5.1 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 broadcaster repetitively breaches the Code. Further, the Authority considers that this approach ensures that broadcasters 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.

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5.2 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 warning and progresses to sanctions which increase in severity, from the 1<sup>st</sup> to the 6<sup>th</sup> breach, according to the number of offences taking place within the previous twelve-month period, on a rising scale, subject to the caveats set out in sections 5.4 through 5.9.

5.2.1 1<sup>st</sup> Breach: 1<sup>st</sup> Warning

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

5.2.2 2<sup>nd</sup> Breach: 2<sup>nd</sup> Warning

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

5.2.3 3<sup>rd</sup> Breach: Public Warning

- i. The Authority shall notify the broadcaster in writing that it has committed a breach of the Code. The notification shall contain details of the breach committed and a statement that the notification comprises a **Public Warning**;
- ii. The Authority shall publish the notification on its website; and,
- iii. The broadcaster 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 minute notice, broadcast once every three hours for a period of twenty four hours) as the Authority shall direct.
- 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 broadcaster to take such steps as the Authority reasonably considers

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necessary to minimise the likelihood of future breaches occurring. The broadcaster 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 broadcaster has implemented the necessary steps to the reasonable satisfaction of the Authority.

### 5.2.4 4<sup>th</sup> 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 with circulation in Trinidad and Tobago a notice containing details of the breach and the sanctions applied.

### 5.2.5 5<sup>th</sup> 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 with circulation in Trinidad and Tobago a notice containing details of the breach and the sanctions applied.

### 5.2.6 6<sup>th</sup> Breach: Termination

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

5.3 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-month period ending with the date on which the breach under consideration was committed.

5.4 For particularly serious breaches, the Authority may apply a sanction which is more punitive than the warning or sanction that would be applied in accordance with 5.2 above.

5.5 The Authority will treat as a particularly serious breach:

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- i. any material breach of rule 1.4, 1.14, 3.1, 3.4 (on which see Section 5.10), 4.2 or 11.1;
- ii. any breach which is so severe in the extent to which the conduct by the broadcaster 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 broadcaster 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 2001) 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.

5.6 In determining the sanction to be applied in the exercise of discretion under section 5.4, 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 5.3, 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 5.5.

5.7 Where the Authority considers that a sanction provided by 5.2 for a particular breach is unduly severe having regard to all the circumstances of the breach, it may apply such 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 broadcaster to ensure compliance with the Code;
- iii. the steps taken by the broadcaster to address the breach and to provide relief to any person harmed by the breach;

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- iv. the extent to which the particular provision calls for the exercise of judgment on the part of the broadcaster, and the extent to which that judgment was exercised reasonably.

5.8 Where a broadcaster 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 broadcaster is permitted to act in a manner which may prejudice the security of the Republic of Trinidad and Tobago. The provisions of sections 4.2 and 4.3 shall not apply to any breach of Rule 3.4, and the offending broadcaster shall have recourse only to the protections set out in the Act.

5.9 Where the Authority exercises its discretion under section 5.4, 5.7 or 5.8, it shall provide its reasons for so doing together with the notification of breach.

5.10 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 broadcaster demonstrates contempt for the Code by committing repeated breaches of the Code.

## **5 THE GUIDELINES**

### **A. USE OF THE GUIDELINES**

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

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

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

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

### **B. GUIDELINES**

#### **Guidelines to Clause 1 – Protecting Children**

The Rules in Clause 2: Harm, Abuse and Discrimination are also intended to protect children and therefore Clauses 1 and 2 should be read together.

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

### **Guidelines to Rule 1.1**

#### **Material unsuitable for children**

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

- Offensive language
- Violence
- Sexual portrayal and the graphic reporting 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.

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. Broadcasters are required to protect children and young persons from exposure to unsuitable material by the use of advisories and warnings as well as appropriate scheduling. The Rules in Clause 9 relating to Information and Warnings must therefore be read in conjunction with the Rules in Clause 1.

### **Guideline to Rule 1.2**

The “watershed” is the period outside which material that is unsuitable for children cannot be shown. The watershed period commences at 22:00 in the evening and ends at 05:00 on the following morning and therefore material which is not suitable for children shall not be broadcast between the hours of 05:00 and 22:00.

It is important for broadcasters to understand that compliance with the watershed does not mean that very 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.

Broadcasters are also reminded that pornographic content is not to be shown at any time on free to air television or the basic package of subscription broadcasters.

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

#### **Guidelines to Rules 1.3 - 1.5**

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

#### **Guidelines to Rules 1.6 – 1.8**

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

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

#### **Guidelines to Rule 1.9**

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

#### **Guidelines to Rules 1.10 through 1.14**

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

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

Programming with sexually explicit material must not be broadcast outside the watershed. Any pre-watershed portrayal of sexual behaviour or discussion of sexual behaviour is not acceptable unless there is a serious educational purpose. In the case of any discussion on or portrayal of less explicit behaviour, this must be justified by the context and the broadcaster must be able to demonstrate reasonable editorial judgement.

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.

### **Guidelines to Rule 1.16**

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

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

Radio broadcasters should be alert to the possibility that a caller contributing to a call in programme is under 18. Where a broadcaster suspects that a caller may be under 18, the broadcaster should take reasonable steps to ascertain the person's age before proceeding with the call.

### **Guidelines to Rules 1.18 - 1.19**

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

### **Guidelines to Clause 2 – Harm, Abuse and Discrimination**

Clause 2 must be read in conjunction with Clause 1 as the Rules are designed to provide appropriate protection for adults as well as for children, from harmful, abusive or discriminatory material. Clause 2 must also be read in conjunction with Clause 4 on Race and Clause 11 on Religion.

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

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

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

### **Guidelines to Rule 2.1**

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

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

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

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

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

## **Guidelines to Rule 2.2**

Broadcasters should take all reasonable steps, before broadcasting information about any person or event, to ensure that the information is accurate and broadcasters should not present that information in a manner which is likely to mislead the viewers and listeners. Where the broadcaster has taken such steps, and inaccurate or misleading information is inadvertently broadcast, the broadcaster 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 broadcaster 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, This in contrast to the scenario in which deliberate or reckless conduct led to the inaccurate information being broadcast.

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 broadcaster to correct inaccurate or misleading information.

## **Guidelines to Rule 2.3**

It is important for broadcasters to remember that they remain responsible for compliance with the Code at all times. The fact that programming is ‘live’ and involves third-parties does not absolve them from this responsibility. Inevitably, there are times when third-parties will do or say things which breach the Code and talk shows are a prime example. Whilst the broadcaster cannot always stop a breach occurring, they can take steps to prevent them, and to apologise if they happen. For example, guests on programmes can be briefed in advance about what is and is not acceptable. A Delay Facility and “dump button” can be used to prevent unacceptable material being broadcast. If a caller starts to become abusive, they can be warned that they will

be cut-off if they continue, and the call terminated if they carry on. When something offensive has been said or done, the broadcaster can mitigate the offence caused by apologizing as soon as possible.

#### **Guidelines to Rule 2.4**

Any reference in humorous or satirical programming to race, national or ethnic origin or any of the matters referred to in Rule 2.1, must be such that the humorous or satirical content is obvious to any reasonable person.

#### **Guidelines to Rule 2.5**

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

#### **Guidelines to Rule 2.6**

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

#### **Guidelines to Rule 2.7**

Material which displays cruelty should be avoided by broadcasters 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 2.8**

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

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

### **Guidelines to Clause 3 – Crime**

Clause 3 is to be read together with Clause 5 on News and Public Affairs.

#### **Guidelines to Rule 3.1**

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

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

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

#### **Guideline to Rule 3.2**

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

#### **Guidelines to Rule 3.3**

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

### **Guidelines to Clause 4 – Race**

The principle underlying this Clause is that the only biological basis of race lies in genetic groupings based on markers which do not reflect phenotypical or behavioural traits. (See Definitions for meaning of “racial groups”). It is on this basis that broadcasters are to exercise responsibility when treating with issues of race.

Broadcasters 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 broadcasters opting not to use the Delay Facility, as more serious than breaches committed by broadcasters who have properly implemented the Delay Facility.

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

#### **Guidelines to Rule 4.1**

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

#### **Guidelines to Rule 4.3**

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

### **Guidelines to Clause 5 – News And Public Affairs**

#### **Guidelines to Rule 5.1**

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

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

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

### **Guidelines to Rule 5.3**

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

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

### **Guidelines to Rules 5.4 – 5.5**

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

### **Guidelines to Rule 5.6**

In reporting of statistics whether pertaining to crime, or other current affairs, there is potential for the stating of statistics in a manner which does not accurately represent the underlying

information or facts. Broadcasters should avoid this through the use of responsible editorial judgment.

### **Guidelines to Rule 5.8**

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

### **Guidelines to Rule 5.9**

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

### **Guidelines to Rule 5.10**

Broadcasters are expected to exercise a degree of responsibility and sensitivity in reporting the names of victims of crime, accidents or tragedy. Broadcasters are also reminded of their obligation to comply with the laws relating to identification of criminal offenders who are juveniles and victims of sexual offences.

## **Guidelines to Clause 6 – Elections**

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

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

### **Guidelines to Rule 6.1**

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

“Reasonable and balanced opportunity” means that candidate or representatives of the major political positions should be offered the opportunity to take part in electoral discussion and reports. A broadcaster should use reasonable editorial judgement in determining the amount of air time to be allocated to each candidate or party having regard to the number of constituencies being contested by that particular party and any other circumstances as determined by the Authority.

#### **Guidelines to Rule 6.2**

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

#### **Guidelines to Rule 6.3**

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

#### **Guidelines to Rule 6.4**

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

#### **Guidelines to Rule 6.5**

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

## **Guidelines to Clause 7 – Fairness**

### **Guidelines to Practice 7 (i)**

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

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

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

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

(vi) be given clear information, if offered an opportunity to preview the programme, as to whether they will be able to effect any changes to it.

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

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

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

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

- (i) material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
- (ii) anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute.

4. Programmes, such as dramas and factually-based dramas should not portray facts, events, individuals or organisations in a way which is unfair to an individual or organisation. (See Interpretation of terms for meaning of “fairness”).

### **Guidelines to Practice 7 (iii)**

The requirement of informed consent is considered even more important when dealing with young persons (under the age of eighteen) and persons over eighteen who do not have the capacity to give consent either because of mental disability or emotional distress and trauma. In the case of persons under eighteen, consent may be given on their behalf by a parent, guardian

or a person in loco parentis who must be over eighteen years old. In the case of the latter, consent may be given by a person with primary responsibility for their care.

In any event, persons not in a position to give consent should not be asked for views on matters likely to be beyond their capacity to answer properly.

**Guidelines to Practice 7(iv)**

Fairness should also be practiced in honoring guarantees to contributors with respect to content of a programme, anonymity or confidentiality and in allowing the right to reply to persons against whom allegations of wrongdoing or incompetence or other significant allegation has been made in a programme.

**Guidelines to Practice 7(vi)**

Anyone 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. The broadcaster must however exercise fairness in indicating clearly that the person has chosen not to appear and to give the explanation offered by that person, if it would be unfair not to do so.

**Guidelines to Practice 7(vii)**

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

**Guidelines to Clause 8 – Privacy**

**Guidelines to Practice 8(i)**

Infringement of privacy against an individual or organization in a programme or in connection with the obtaining of material included in a programme must be warranted or done with the

consent of the individual or organization given prior to the programme or material being broadcast.

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

#### **Guidelines to Practices 8(iii) – 8(iv)**

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

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

#### **Guidelines to Practice 8 (vi)**

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

#### **Guidelines to Practices 8(x) – 8(xii)**

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

### **Guidelines to Clause 9 – Information And Warnings**

The Rules in Clause 9 should be read together with the Clause 1 on Child Protection and Scheduling. In catering to the needs and tastes of differing groups of listeners and viewers, the

broadcaster must pay particular attention to his obligation to protect children and young persons and observe the Rules on watershed and appropriate scheduling.

### **Guidelines to Rule 9.1**

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

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

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

Suggested wordings for advisories and warnings are as follows:

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

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

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

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

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

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

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

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

### **Guidelines to Clause 10 – Advertising**

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

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

### **Guidelines to Rules 10.1 and 10.3**

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

Broadcasters are therefore required to make a clear separation between formal advertising and programming so that viewers and listeners are able to identify when they are being advertised

to. Commercial messages within a newscast should therefore not be read by the newsreader. If this is not possible for some reason, commercial segments should be clearly indicated e.g. by the newsreader saying at the start “We now pause for some commercial messages” and at the end, “That was a commercial message.”

### **Guidelines to Rule 10.2**

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

### **Guidelines to Rules 10.4 – 10.5**

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

It is the responsibility of the broadcaster to ascertain whether these claims are based on scientific data and where they are not, the advertisement must include a disclaimer in accordance with Rule 10.4.

### **Guidelines to Rule 10.6**

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

### **Guidelines to Rule 10.7**

In scheduling advertisements during children’s programmes, broadcasters must pay particular attention to the timing and frequency of advertisements promoting the same product so as not to unduly influence impressionable minds.

### **Guidelines to Rule 10.8**

Broadcasters 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 agencies. With respect to the advertisement of health cures and educational courses/programmes, the broadcaster has particular obligations concerning substantiation of claims and accreditation.

### **Guidelines to Rule 10.9**

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

## **Guidelines to Clause 11 – Religion**

### **Guidelines to Rule 11.1**

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

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

### **Guidelines to Rule 11.2**

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

In a multi-religious society broadcasters must have regard to the special place that religion is likely to hold in the lives of adherents of all faiths. Given the pervasive nature of broadcasting

media and the likelihood that religious programmes reach persons of various religious persuasions at the same time, broadcasters must exercise sensitivity and balance in the treatment of all religious programming.

**Guidelines to Rule 11.5**

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 for the producers of the relevant programme.

**Guidelines to Rule 11.6**

In the context of the Code, the term “living person” does not apply to deities and the belief held by some religious groups that any deity is living.

**THE BROADCASTING CODE**  
**ANNEX 1 – DECISIONS ON RECOMMENDATIONS FROM THIRD CONSULTATION ROUND**

## ANNEX 1 – Decisions on Recommendations made in the Third Round of Consultation

The following summarizes the comments and recommendations received from stakeholders on the third draft of this document (dated 15 December, 2008), and the decisions made by TATT as incorporated in this final revised document (dated 11 March, 2009).

Document Sub-Section	Submission Made By: Stakeholder Category <sup>1</sup>	Comments Received	Recommendations Made	TATT's Decisions
		<b>GENERAL</b>		
General Comments	Kwesi L. Prescod	<p>I am pleased that the general public has been given an opportunity to respond in writing to the draft Broadcast Code issued by the Telecommunications Authority of Trinidad and Tobago.</p> <p>TATT has made great strides to make the Broadcast Code inclusive, as evidenced by its proposed consultation approach in this specific instance. This has resulted in much discussion on whether the Code contravenes elements of our constitution – specifically the provisions regarding the right of free speech.</p> <p>Some commentators have noted that the proposed Code borrows heavily from that utilized by the UK Office of Communications (OFCOM) to manage its broadcast industry<sup>2</sup>.</p>	<p>While I agree in principle with their intent, the following Sections should be reviewed or omitted as they seem to more appropriately address content providers as opposed to concessionaires of a broadcasting service:</p> <p><b>Part 3, C</b>, Sections 1.6, 1.7, 1.8, 1.9, 1.10, 2.5,</p>	<p>The Authority interprets its mandate in sections 3, 23 and 79 as requiring it to regulate the matters as provided in the code. This is consistent with the national broadcasting policy, which at pg 6 para. 3 recognises the need to prevent harm and abusive broadcast, endorses market based selection of genre and material. Regardless of who creates the contents the broadcaster has a responsibility to ensure that it is appropriate before it broadcasts any</p>

<sup>1</sup> Regional regulatory or Governmental agencies, Existing service and/ or network provider and affiliates, Potential service and/ or network providers and affiliates, Service/ Network Provider Associations/ Clubs/ Groups, General Public

<sup>2</sup> OFCOM's Broadcast Code is available for review here: <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

<sup>3</sup> The Amended Telecommunications Act, 2001 can be viewed here: <http://rgd.legalaffairs.gov.tt/Laws/Ch.%2047/47.31/47.31%20aos.htm>

<sup>4</sup> The Unified Telecommunications and Broadcasting Concession can be viewed here: <http://www.fastforward.tt/files/cms/TandT%20Telecoms%20Concession.pdf>

<sup>5</sup> The GORTT Policy on Broadcast and the Broadcasting Industry can be viewed here: [http://www.fastforward.tt/files/cms/National\\_Broadcast\\_Policy.pdf](http://www.fastforward.tt/files/cms/National_Broadcast_Policy.pdf)

**THE BROADCASTING CODE**  
**ANNEX 1 – DECISIONS ON RECOMMENDATIONS FROM THIRD CONSULTATION ROUND**

Document Sub-Section	Submission Made By: Stakeholder Category <sup>1</sup>	Comments Received	Recommendations Made	TATT's Decisions
		<p>The alignment of the proposed Code to that mentioned above is such that the definition of particular terms, market conceptualization and proposed approach to management (e.g. the importance of “context” to the determination of whether specific content is appropriate) seems to mirror almost exactly that enforced by OFCOM.</p> <p>While it is encouraging to see the evident application of international precedent, there is the underlying concern of whether the legal frameworks in our jurisdictions are sufficiently common to facilitate such liberal adoption. With this in mind, I undertook to first review the extant legislative framework and TATT’s associated powers thereby enshrined, in comparison to that of OFCOM.</p> <p>TATT’s regulation of the sector is constrained by a number of complementary establishing clauses and obligations enshrined in the <b>Telecommunications Act (2001) as amended</b><sup>3</sup> (herein referred to as “the Act”), and the <b>Telecommunications Concession</b><sup>4</sup> (herein referred to as “the Concession”). These obligations are further contextualized by GoRTT’s <b>Policy on Broadcast and the Broadcasting Industry</b><sup>5</sup> of February 2004 (herein referred to as “the Policy”).</p> <p>1) Section 18 of the Act empowers TATT to recommend persons to whom a concession for the provision of a</p>	<p>2.8, 2.10, 2.11, 4.1, 4.2, 4.3, 5.2, 5.4, 5.6, 5.7, 5.8, 5.9, 6.1, 6.3, 6.4, Practices under 7.1, 11.3, 11.4, 11.5, 12.2, 12.3</p> <p>These sections may probably need to be redrafted to reflect the obligation of the Broadcaster pursuant to the standards of content to be broadcast before the watershed, if at all.</p> <p>TATT does not have the power to validate appropriate news or election coverage. TATT would do well to consider whether it is the appropriate arbiter of appropriate religious content (in the broadest sense)</p>	<p>material. The code seeks to regulate that responsibility.</p> <p>See above.</p> <p>The Authority does not agree with the interpretation of the clauses, and has obtained advice from its attorneys regarding the extent of its mandate as enshrined in the Act. In particular, the Authority interprets the provisions of sections 3(g), 23 and 79 of the Act as requiring the regulation of content consistent with the provisions of the constitution. Any matter in which activities by the broadcaster in the operation of</p>

<sup>6</sup> The UK Communications Act, 2003 can be viewed here: [http://www.opsi.gov.uk/ACTS/acts2003/ukpga\\_20030021\\_en\\_1](http://www.opsi.gov.uk/ACTS/acts2003/ukpga_20030021_en_1)

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		<p>broadcasting service should be granted.</p> <p>2) Section 21 of the Act limits the persons who can undertake the business of public broadcasting to those to whom a Concession has been granted by the Minister, on the advice of TATT.</p> <p>3) Section 22 of the Act outlines terms and conditions to be included in the Concession. These terms and conditions include, but are not limited to the duration of the Concession, the obligation to pay fees as determined by TATT, and provide for TATT's oversight of the Concessionaire's general performance.</p> <p>4) Section 23 of the Act obliges the concessionaire to adhere to the provisions of a Broadcast Code to be developed by the Authority.</p> <p>5) Section 79 of the Act requires TATT to establish the Code (referenced in Section 23) with the purpose of "regulat[ing] the practices of concessionaires of broadcasting services".</p> <p>6) Conditions D5 and D6 of the Concession oblige the concessionaire to provide news programmes to the general public;</p> <p>7) Condition D8 defers the question of appropriate content to "compl[iance] to the provisions of the Broadcast Code"</p>	<p>TATT may also consider whether many of these sections seem to be addressing negative practices which may be readily addressed elsewhere in the larger legislative frameworks of Trinidad and Tobago. In those cases, it may be advisable for TATT to reference the parent legislation for which prosecution/ legal recourse may be sought against the Broadcaster and/or the content provider.</p>	<p>the concession granted under the Act impacts upon the rights of individuals, the Authority considers the Act as mandating it to impose such legitimate limitations as are necessary to ensure protection of the relevant rights.</p> <p>The Authority does not consider there to be a need to conduct this exercise in light of its mandate as set out above. The Authority notes that the laws of Trinidad and Tobago referred to do not address the issue of the concession granted under the Act and its possible misuse by a broadcaster.</p>

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		<p>8) Clause A2 of the Policy states that the government “does not propose to dictate content in broadcasting.”</p> <p>9) Notwithstanding the above, Clause A4 of the Policy the government reaffirms that it “will not tolerate any incitement to racial animosity and ethnic divisiveness emanating from the broadcast industry and will rely on the law to deal expeditiously with any such violations”</p> <p>10) It should also be highlighted that the Act was <b>not</b> passed with a special majority, and further, does not contain the required provision indicating that a law is to have effect in spite of being in contradiction to Sections 4 and 5 of the Constitution. Therefore, it is reasonable to assume that neither the Act nor any subsidiary framework can be <i>ultra vires</i> the Constitution.</p> <p>On considering the evidence above, the picture that develops out of these Sections, Conditions and Clauses is a framework where <b>TATT has limited or no oversight of content itself</b>. In fact, TATT's powers, and that of the Broadcast Code seems constrained by Section 79 of the Act to regulating the “practices” of concessionaires, which may include how and when particular types of content is to be aired, but does not give TATT oversight to regulate the content itself.</p> <p>This is critical. Further, one must consider the following - despite the fact that many broadcasters have programme production (“production”) capability through which they create their own content (e.g. News magazines), the function of</p>		<p>The Authority does not agree with the interpretation of the relevant policies and the Act. In particular, the policy of not dictating content, does not address the issue of regulation of content as set out in the Code, but read in context refers to the mandating of particular genres of material. The Policy referred to specifically acknowledges the need for the imposition of limits in certain areas.</p>

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		<p>production is separate and apart from the function of broadcasting. If this precept is accepted, then considering the para above, one can argue that TATT's powers are limited to regulating the broadcasting function <b>only</b>.</p> <p>This is given credence coming out of the recent (2006) impasse between TATT and CNC3 came the definition of "content providers" as opposed to "broadcasters", i.e. reiterating that persons who developed programmes but were not themselves broadcasters. Unfortunately, many of the provisions in the Code seem to presume that the broadcaster is the content provider, while the market belies such a presumption as independent Content Providers are now a growing part of the domestic television broadcasting landscape. These Content Providers were, and should remain, outside of the regulatory oversight of TATT.</p> <p>TATT does seem to have a role to ensure that broadcast practices are such that potentially offensive content is not broadcast at periods or in such a fashion as to expose the general audience to distress unawares. Further, TATT seems to have a clear role as a mechanism through which the broadcast of offensive or illegal content is brought to the attention of the law enforcement authorities.</p> <p>By comparison, the UK's <b>OFCOM does have content oversight powers</b>. TATT should note that OFCOM has the power to establish a "Content Board" to review the</p>		<p>The Authority's regulates any material which is broadcast. It is the broadcasting, not the production, which triggers the regulation under the Code.</p> <p>The issue of content provision, and the requirement for a concession is not relevant to this issue. In any event, CNC3 is a provider of a broadcasting service, having applied to the Authority for a concession and been granted one. There was no "impasse".</p> <p>It is unclear how TATT would have a role to "bring offensive or illegal content" to the attention of the law enforcement authorities. There is no provision in the Act which implies such a role, further, there is no law which would pertain to "offensive" content.</p>

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		<p>appropriateness of content that has been or is to be, broadcast (Section 13, Communications Act 2003<sup>6</sup>.)</p> <p>This is not surprising as the public broadcasting sector of the UK developed through different political and social circumstances that what pertained, and still pertains in Trinidad and Tobago today. This is evident by the high proportion of local content broadcast on all broadcast channels. It has also resulted in specific classification of programming which may not have a true equivalent – in audience or production mores – in Trinidad and Tobago.</p> <p>This is critical as, many of the provisions that TATT has emulated from the OFCOM Broadcast Code that do not appropriately adapt to the Trinidad and Tobago context. Further the prevalence of broadcast channels originating in other jurisdictions with the channel line-up of operators like ICNTT, a request for complete content editing is unrealistic. A compromise must be made that will facilitate the appropriate oversight of content, while not requiring the stringent, some may argue partisan management outlined in aspects of the Code.</p> <p>I would like to again elucidate that while it appreciates what TATT is trying to achieve, there must be consideration that the transfer of the OFCOM approach to Trinidad and Tobago may unfortunately result in the breaching of the Constitution, and Clause 2 of the Policy as established by GoRTT, and make the Code unworkable.</p>		<p>The Authority does not agree that there is a “transfer of the OFCOM approach”. The Act requires a Code to regulate the provision of broadcasting services consistently</p>

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				with sections 4 and 5 of the constitution. The Code is mandated by the laws of Trinidad and Tobago. The use of OFCOM's code as guidance for the drafting process does not in any way impact upon the legality of the Code.
General Comments	One Caribbean Media Limited	<p>The Authority is to be congratulated for the consultation process in respect of the Draft Broadcast Code. We doubt that anyone will be able to say with any credibility that the Authority did not seek the views of stakeholders and seek to take these on board. We are also pleased that several of the comments and recommendations made by stakeholders led to meaningful revision of the original (July 2008) draft.</p> <p>However, we are of the view that the revised Draft still falls short of what is desirable and workable in the environment of Trinidad and Tobago and within the capabilities of the Authority for effective implementation and enforcement. Perusal of the Authority's responses to the comments and recommendations of stakeholders reveals what may be the source of the Authority's positioning on several of the recommendations, and why it seems to have had difficulty in changing its position. The source of the problem, we believe, is the Telecommunications Act itself. We have therefore addressed the Act and the interpretation placed on it by the Authority. In addition, we think it important to return to the fundamental Matters of Principle which are in our view not adequately addressed by the Authority in the Revised Draft Code. The other sections of these comments address the</p>		<p>The Authority does not agree with your (narrow) interpretation of the relevant provisions of the Act, and has obtained the advice of Senior Counsel which support the Authority's interpretation of its responsibilities under the Act in respect of the Code.</p> <p>In relation to your proposed "matters of principle" we apologise if by oversight the Authority did not adequately address this issue. The Authority notes that the Constitution of the Trinidad and</p>

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		question of Accuracy, Balance and Objectivity, Elections Coverage and the Penalties which are proposed to be visited upon errant broadcasters by the Act and the Code.		Tobago already contains the issues enshrined in the proposed “Matters of Principle”, therefore making it unnecessary for the Code to restate them, particularly in the context of Section 3(g) of the Act.
General Comments	TSTT	<p>It is noted that subject to certain exceptions, the Code has been amended to apply to all content by subscription television broadcasters and not only to their basic package.</p> <p>It is noted that the Authority is of the view that if foreign content is to be re-broadcast, it must nevertheless comply with the Code and further that it would be impractical to regulate the internet/internet broadcasting. Given that it is technologically possible as in Europe, UK, US etc, to provide customers with delayed transmission of programmes in some instances within the last 7 days, it is submitted that a distinction between linear and non-linear broadcasting must be made. Given that in non-linear broadcasts it is ultimately the consumer/subscriber that chooses the content in a similar manner as in relation to the internet, it is also submitted that the Code should not apply to non-linear broadcasting</p> <p>As previously noted it is generally accepted that Broadcasters would inevitably have to utilise content from abroad in order to populate their respective line-ups/channels. Therefore in relation to live linear re-broadcasts from foreign providers it will be exceedingly difficult for Broadcasters, particularly in</p>	The Broadcasting Code should not apply to Non-Linear Broadcasts where available.	The Authority considers that certain provisions of the code should apply to all broadcasting regardless of whether it is linear or non-linear, local or foreign. The Authority's concern is to ensure that whatever content is broadcast to the public of T&T is consistent with the objectives underlying the Code. The Authority has, however, revised the Code to more effectively take account of this issue in certain specific cases.

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		<p>relation to content it is not responsible for producing, to ensure compliance with the Code.</p> <p>It is reiterated that the Code does not appear to adequately address the issues of re-broadcasting of entire content. Rather it seems more appropriate to Broadcasters who produce their own content or package content themselves or rebroadcast content (individual programmes e.g. Oprah) but not who re-broadcast entire channels. Again, while the Authority has made it clear in its responses that foreign content re-broadcast in Trinidad and Tobago will be subject to the code it has also advised that it does not regulate the advertising of foreign products and services. In light of this it is recommended that that Authority consider approving certain re-broadcast content providers in order to better facilitate compliance with the Code</p>	<p>It is submitted that the Code should contemplate the rebroadcasting of content e.g. ABC, CNBC, NBC, BBC and the like where a Concessionaire may not have the ability to adjust the feed being received. Indeed it is submitted that the Code should not apply to the rebroadcast of linear content received.</p>	<p>See above.</p>
<p>General Comments</p>	<p>Media Association of Trinidad and Tobago (MATT)</p>	<p>Regarding the Draft Broadcast Code dated December 2008, the Media Association of Trinidad and Tobago (MATT) has studied the latest version of the code and is opposed to an organisation external to the media seeking to regulate the industry. This is not to say that MATT is opposed to regulation. However, the association firmly believes that while having no regulation is bad, too much regulation is equally bad. MATT sees the instructions and guidelines of the present Draft Code as overly restrictive. We believe this could lead to too much regulation and a possible abuse of authority that seeks to lay down the law to determine what the public sees, says and hears on radio and television. For this reason, our association endorses self-regulation by all media houses.</p>		<p>Comments are noted. The Authority has a responsibility to regulate the sector as mandated by the Telecommunications Act, 2001. Sections 3, 23 and 79 refer. The Authority is not opposed to self-regulatory measures but these must allow the Authority to fulfil its mandate. We welcome approaches from any industry body to this end, but stress that the Act requires that a Code be in place to address the issue of regulation by the Authority</p>

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		<p>During a recent presentation in Parliament, Minister of Information Neil Parsanlal lamented that local media houses had failed to regulate themselves and to make public guidelines and policies which citizens can hold them to. MATT would therefore suggest that media houses be given further encouragement to regulate themselves. The association is willing to work with stakeholders and its members to establish guidelines that are consistent with internationally accepted standards of ethics and journalistic practice.</p> <p>We also fear that the draft Broadcast Code in its present form is not consistent with established declarations to which this country is already committed, such as the Constitution, in which the right to free speech is already committed, such as the Constitution, in which the right to free speech is enshrined; article 19 of the Universal Declaration of Human Rights; and the 1994 Chapultepec Declaration to which this country is a signatory. We believe it would undoubtedly undermine the work of the media in this country.</p> <p><b>Points of concern</b></p> <p>MATT agrees with many of the submissions already made by individuals and bodies such as the TTPBA and One Caribbean Media.</p> <p>However, the organisation wishes to add to these the following observations:</p>		<p>under the Act.</p> <p>The Authority disagrees entirely with your suggestion that the Code is inconsistent with the UN Declaration on Human Rights or the Chapultepec Declaration. The Code introduces only legitimate limits on the fundamental freedoms promoted by those conventions and enshrined in the Constitution of the Republic of Trinidad and Tobago.</p>

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		<p>The use of vague and ambiguous terms such as: “unfair” “offensive language”, “abusive treatment” and “impartiality”. Similar language was used in the 1997 Green Paper.</p> <p>However, it is to be noted that the Basdeo Panday administration made it clear at that time that such a code could not be implemented without amending the Constitution.</p> <p>To give one example, if this draft code is passed in Parliament, soca and calypso could face censorship, especially by the political and business elite who might consider it “offensive”, however well founded.</p> <p>The code speaks against the use of offensive language in a very vague sense, so that anyone can challenge the lyrical content of certain calypsoes and soca songs.</p> <p>The code requires that media practitioners provide citizens with a sufficient range of information, views, opinions, and facts, a confusing turn of phrase which the Authority should clarify.</p> <p>Penalties such as possible jail time for broadcasters and fines of a quarter-million dollars for breaching the code, in addition to losing a broadcast licence, are too severe.</p> <p>On the topic of privacy the draft code says:  “iii. Broadcasters shall ensure that words, images or actions filmed or recorded in, or broadcast from a public place, do not require prior consent if broadcasting would constitute an invasion of privacy.</p>		<p>The Authority notes that the Courts would be responsible for the interpretation of the relevant terms, and considers this to be adequate protection from any abuse of the term by any “business elite” or any other interest group.</p> <p>The relevant language is only relevant in relation to elections and has been clarified in the revised draft.</p> <p>The penalties would be determined by the Courts, not the Authority. The Court would have a broad discretion and a responsibility to ensure that the penalty fit the offence. In any event, it is not accepted that a loss of a licence and concession could be excessive for wrongdoing in connection with the</p>

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		<p>“viii. Broadcasters 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.”</p> <p>Why not, since these are actions carried out in a public place? How would the possibility of an invasion of privacy arise in such a situation? Why is the onus placed on the broadcaster, and not the person acting in such a way to embarrass him or herself?</p> <p><b>Under “Interpretation of terms”:</b></p> <p>“Abusive treatment is the treatment of an issue or an individual in a manner that <b>causes injury</b> or <b>gives offence without reasonable justification...</b>”</p> <p>Surely “injury” would be covered by defamation law, which is extremely restrictive in this country.</p> <p>Under guidelines, rule 11.2, however, abusive treatment is redefined as referring to the treatment of an issue or individual with “<b>the deliberate intention of causing injury or giving offence,</b>” etc. This is more acceptable—but contradicts the earlier definition.</p> <p>If the first definition is used, then who determines what “reasonable justification” is?</p>		<p>licence or concession. The penalties outlined are contained in the Act, and each broadcaster upon receiving its concession to operate, signed an acknowledgement and acceptance that these penalties would be applied for a breach of the Code.</p> <p>The right to privacy, by law, can arise in such circumstances, albeit rarely. The person concerned is not always able to avoid the compromise or privacy such as in the case of accidents or medical emergencies.</p> <p>The Authority notes that the law of defamation may cover the broadcaster’s conduct however the Authority has a responsibility, having recommended the grant of a concession and granted a licence to the broadcaster, to ensure that the broadcaster does not abuse the concession and licence. This cannot be achieved under the laws of Trinidad and Tobago. The guideline is consistent, note the use of the qualification “<i>without reasonable justification</i>”.</p>

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		<p>According to TATT, the original document was modelled on the UK's OFCOM's (Office of Communications) Broadcasting Code of 2005. However, other cut-and-paste measures appear to have been inserted that are not consistent with the OFCOM guidelines, as is evident in the last sentence of the notes on crime in this document.</p> <p>Clause 3 attempts to ensure that material likely to encourage or incite the commission of crime or to lead to disorder is not included in television or radio broadcasts. Sections 3.2 (demonstration of criminal techniques) and 3.3 (prejudice the detection or prevention of crime) are well thought out.</p> <p>However, section 3.1 allows for abuse by the government, as recent cases in Venezuela show. Broadcasters were threatened or shut down for covering protest marches against the government. In these cases the marches had not been authorised by the police and were therefore deemed "illegal."</p> <p>Section 3.4 says: "Broadcasters shall not transmit any programme, information or other material, which endangers the security of the Republic of Trinidad and Tobago."</p> <p>This seems to give carte blanche to the government to censor or prevent the broadcast of material that may in fact be in the public interest, especially as this is one of the few clauses on which there are no notes in the Guidelines. It can too easily be used as a tool of repression.</p>		<p>The Republic of Trinidad and Tobago is possessed of a strong judiciary and the Authority is confident that the Courts would protect against any such abuse of power.</p> <p>This clause is necessary. The protection of the security of the state is an issue of paramount concern. The Authority repeats its confidence in the Courts to prevent any abuse of power.</p>

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		<p>This section does not appear in the UK document and should be removed.</p> <p>The sections dealing with the protection of children and young persons seem to be well thought out. However, certain material unsuitable for children can be accessed over the Internet and other media (magazines etc).</p> <p>It is of interest, and could be considered inconsistent and unfair, that Internet-based broadcasters are not covered by the Code.</p> <p>The sections dealing with the prevention of abuse on grounds of race or religion are comprehensive.</p> <p>However, such sanctions do not apply to abuse on other grounds, eg gender, sexual orientation, etc. These need to be added to the document.</p> <p>Regulatory control: The Code does not give TATT power to censor programmes before they are broadcast, but allows it to apply penalties to broadcasters, including written warnings, public sanction, suspension and revocation of their licence. Once such controls are in place, the possibility that broadcasters will impose unnecessarily harsh self-censorship will be an issue.</p> <p>It appears draconian and unreasonable that TATT can amend or modify “at any time” the Broadcast Content Complaints Handling Procedures.</p> <p>It should be noted that the draft Constitution that is before Parliament would allow the executive to appoint members to the</p>		<p>The Authority notes that it is not responsible for the print media.</p> <p>The Authority notes that the internet is not regulated for reasons of practicality. The Authority notes that internet broadcasting remains much less pervasive than free to air or cable television broadcasting.</p> <p>The Authority considers the provisions of the Code to be sufficiently broad to allow for free expression without undue limitation.</p> <p>The Broadcast Content Complaints Handling Procedures is administrative and addresses only the manner of submission of complaints and how the Authority</p>

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		<p>TATT board, as opposed to the existing system under which the President appoints them. In small countries such as ours this may pose a risk to freedom of speech if members of the board are therefore inclined to favour the government and to frown on dissenting opinions.</p> <p>Please note that MATT would welcome the opportunity to meet with and discuss these and any further points arising with members of TATT and other interest groups such as the TTPBA.</p>		<p>will communicate with the persons involved. No prejudice is likely to be suffered by any person as a result of the Authority being able to amend this document as necessary.</p>
General Comments	One Caribbean Media	<p>The first point that we wish to emphasise is that 3(g) speaks to the <i>regulation</i> of broadcasting services, and importantly, in a manner consistent with existing constitutional rights and freedoms contained in sections 4 and 5 of the Constitution.</p> <p>However, in several of its responses to comments and recommendations, the Authority seems to be asserting that “in regulating broadcasting services, the Authority is required to <i>“balance the rights of broadcasters against the rights of individuals under the Constitution.”</i> (our emphasis). We do not agree with this assertion by the Authority. In our view, the function of the Authority in relation to broadcasting services is to enforce the rules promulgated by Parliament, not to ‘balance rights’, a function which is performed by a court of law or other judicial authority.</p> <p>Moreover in the revised draft, the Authority seems to arrogate</p>	<p>We would like to see the Code explicitly embrace the foundation principles of (1) freedom of expression as enshrined in the Constitution of Trinidad and Tobago (2) choice and media literacy on the part of an informed citizenry which does not require a ‘Big Brother’ state to control what news, information and entertainment they</p>	<p>In enforcing the rules (the Code) promulgated by Parliament, the Authority will be required to exercise judgement as to whether it considers a particular matter to be a breach of the Code. This analysis will on occasion and as set out in the previous DoR comments require the Authority to balance the conflicting rights of stakeholders. In any event however, the final decision as to whether or not to impose a penalty would lie with the court or with the Minister as the case may be.</p> <p>The Authority notes your comments</p>

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		<p>even further duties in asserting that:</p> <p style="text-align: center;">“The Act requires that the Authority ... guide the development of a broadcasting sector which is likely to safeguard, enrich and strengthen the national, social, cultural and economic well being of the society.” (p.5)</p> <p>However, those words are not found in section 3(g) where the broadcast sector is addressed, but rather in section 3(a) where the reference to these developmental goals is made in respect of the <i>telecommunications system</i>. The only function which the Act enjoins the Authority to perform in respect of the broadcasting industry is regulatory. The Authority seems to transpose the developmental role, which it clearly has been given in respect of telecommunications, to the broadcasting industry. It is true that the broadcasting industry uses the spectrum to deliver content, but the Authority seems to take the view that it is <i>required ipso facto</i> to venture far and wide into the nebulous and difficult areas of setting standards for programming and of content regulation. While this may ultimately be a matter of statutory interpretation (and we are certain that if the Authority pursues this line, there will be legal challenge), the more fundamental point is that certain issues cannot be effectively legislated, and it is probably naïve for anyone to think that moral, ethical and behavioral problems in any society can be resolved (solely) by regulation or legislative mandate.<sup>7</sup></p>	<p>consume and (3) co-regulation, the Authority and the industry as partners in the development, practice and enforcement of the Code.</p> <p>The Authority should embrace a view of the regulatory landscape for broadcasters which acknowledges the roles of:-</p> <ol style="list-style-type: none"> <li>1. Broadcasters themselves, engaged in self-regulation through internal codes of conduct</li> <li>2. The Media Complaints Council</li> <li>3. The Courts of Law, and of course</li> <li>4. TATT itself.</li> </ol>	<p>on the interpretation of section 3(b) of the Act, but considers your interpretation to be narrow. The Act defines telecommunications as including the “transmission emission or reception of signals, writing, pulses, images, sounds or other intelligence of any kind by wire, wireless, optical or electromagnetic spectrum or by way of any other technology.” It is noted that the broadcasting services to be regulated by the Code are therefore part of the <i>telecommunications system</i> in Trinidad and Tobago. This is in contrast to a telecommunications service, which does not include broadcasting services. The Authority considers that development of a <i>telecommunications system</i> which is likely to safeguard, enrich and strengthen the national, social, cultural and economic well being of the society must encompass not only the technical systems, but also the content carried on the system.</p>

<sup>7</sup> A case in point is the now infamous Integrity in Public Life Act, 2000 where the unobjectionable goal of integrity in public life has fallen victim to legislation which was poorly conceived, cynically passed, and has become an instrument of victimization of public officials, a compliance nightmare for public servants and directors of boards of state institutions, and scandal of the integrity commissioners themselves. And all of these odious consequences were foreseen (see Terrence Farrell ..)

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		<p><i>The Authority has made an interpretation of the Telecommunications Act in relation to its responsibilities in respect of the Broadcasting industry which is not justified by the words of the Act itself.</i></p> <p>The Authority's response to which is:- "The Broadcasting Code as a matter of law is subject to all laws and in particular the Constitution of the Republic of Trinidad and Tobago. This does not need to be stated in order for it to be so." This response is really trite and misses the larger point which that section of our Comments sought to make. That point was that the OfCom Code, on which the TATT Code draws, is based on three clear principles:-</p> <ol style="list-style-type: none"> <li>1. Freedom of expression as an essential right and any restriction on that right has to be <i>justified as necessary</i> in a democratic society on grounds of national security, territorial integrity, public safety, for the prevention of crime and disorder, the protection of health or morals or the reputation or rights of others. It is critically important to read this correctly. There is no notion here about 'balancing' of competing or conflicting rights. Rather the right of freedom of expression is paramount</li> </ol>	<p>The point which the Authority seemed to miss is that we are suggesting that the Code be located within (a) a set of laws already on the books, which address the protection of citizens who are aggrieved by the media or which require certain behaviours on the part of public authorities and private institutions alike, and (b) certain institutions and practices which can respond to complaints.</p>	<p>Accordingly, it is important for the regulation to ensure that the content broadcast furthers this objective and we do not agree with your assertion that the Authority's interpretation of the Act is no justified by the words of the Act.</p> <p>The Authority considers that section 3(g) of the Act, which places the regulation of broadcasting content within the context of the rights and freedoms set out in Sections 4 and 5 of the Constitution to adequately incorporate the fundamental principles of freedom of expression etc.</p> <p>The Authority notes that the OFCOM Code, while an inspiration for the Code cannot be considered in a vacuum. The OFCOM Code is set within the legal framework that exists in the UK, a central tenet of</p>

<sup>8</sup> See the section below, "Is TATT Independent?"

<sup>9</sup> However, the rights of media houses are not to be understood as derived from individual rights but rather should be seen as an 'institutional right'. See for example, Eric Barendt, *Freedom of Expression*.

<sup>10</sup> To illustrate at page 68 of the Revised Draft Code in its 'decision' on the Radio Tambrin comment, the Authority allows itself to say that "The **Code** allows for a diversity of views to be aired via the media". This is not so at all. It is the **Constitution** which allows for a diversity of views to be aired via the media.

<sup>11</sup> It may well be that the Authority is blasé about litigation because at the end of the day it is the State that pays. Broadcasters cannot be equally blasé because litigation may be expensive and long-drawn out, and our businesses may suffer as a result. Engaging broadcasters in fruitless litigation is one way of seeking to control or muzzle the media, a stratagem to which our courts and judges must be alive.

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		<p>and any restriction must be <i>justified as necessary</i>, i.e. the onus is on the person wanting to restrict to demonstrate that the right to freedom of expression must be restricted.</p> <p>2. People have <i>choice</i> among a wide range and variety of media on an increasing range of media platforms. Therefore, one of the principles is that the citizen must become 'media literate', that is capable of understanding what the media delivers and choosing what is appropriate <i>without the intervention of the state in that process</i>.</p> <p>3. Self-regulation or co-regulation...based on the recognition that it is far better and more efficacious and economic to encourage the industry to regulate itself on the basis of a code of conduct than for a regulator to attempt to spot and react to every breach in the multi-channel and fast-paced world of broadcasting. Reactive regulation is likely to lead to inconsistent application of the rules and hence to unfair treatment of broadcasters. It may also open the process of regulation to political interference in the context of a Telecommunications Act in which power is already resident in the hands of the political directorate.<sup>8</sup></p>		<p>which is the lack of a written constitution, therefore requiring that such principles, which we in Trinidad and Tobago hold as fundamental to our Republic, must be expressly included. The Constitution of the Trinidad and Tobago already contains those rights, therefore making it unnecessary for the Code to restate them, particularly in the context of Section 3(g) of the Act.</p> <p>As regards the comment about balancing of rights, the Authority considers that the fundamental principles quoted by OCM from the OFCOM Code, incorporate the concept of balance, within the concept of justifying limitation of freedom of expression in order to protect other rights.</p> <p>The Authority notes your suggestion of self or co-regulation. The Authority has a responsibility to regulate the sector as mandated by the Telecommunications Act, 2001. Sections 3, 23 and 79 refer. The Authority also considers it</p>

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		<p>The Authority is clearly lukewarm about the Media Complaints Council noting in its somewhat perplexing response that:-</p> <p style="padding-left: 40px;">It is arguable that including the Media Complaints Council in the Authority's decision making process would compromise the Authority's independence. It would also compromise the public trust that decisions are independent of the broadcasters, who are the persons against whom complaints are made. (p.148)</p> <p>It is not at all clear just how the Authority's independence would be compromised by incorporating the MCC into the complaints adjudication process since the MCC is not made up of broadcasters or active media personalities.</p> <p>The Authority sees itself as balancing the 'conflicting rights and interests of stakeholders..' through the regulatory framework erected by the Code (p.5). The Authority avers:-</p> <p style="padding-left: 40px;">“The Authority is responsible for ‘regulating broadcasting services consistent with section 4 and 5 of the constitution’. This reference requires, inter alia, the balancing of rights of broadcasters and others to freedom of expression and the press, with the other rights of individuals under the Constitution where they conflict.” (p.84)</p> <p>At another point in the Annex, the Authority states:-</p> <p style="padding-left: 40px;">“The <i>media's</i> right to freedom of expression is not</p>		<p>important to protect the integrity of its decision making processes and therefore would not encourage the inclusion in its decision making process, of any person whose primary purpose is not to serve the objectives of the Act. However, the Authority is not opposed to self-regulatory or co-regulatory measures, provided that these allow the Authority to fulfil its mandate. The Authority would welcome from the industry or any industry body (such as the Media Complaints Council) any proposals for an effective model of self or co-regulation.</p> <p>The Authority notes that OCM refers to the Media Complaints Council as not being made up of broadcasters or active media personalities, however the Authority is concerned about the independence of the MCC from the broadcasters, having regard to the fact that the MCC was formed by, and is appointed, funded and supported by the Trinidad and Tobago Publishers and Broadcasters</p>

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		<p style="text-align: center;">absolute and exists in the context of other individual rights” (p.104) (our emphasis)</p> <p>We submit that the Authority is placing itself on dangerous ground in taking this posture. This, for several reasons.</p> <p>First, we can find no basis or authority for any such ‘balancing’ role for the Authority in the Telecommunications Act. In fact, Section 3(g) states that regulation of broadcasting services must be consistent with the Constitution. Full Stop! The ‘requirement’ to balance rights which the Authority infers from the bald and clear statement is Section 3(g) needs to be founded on something other than assertion. <i>We need to understand what is the basis for the Authority’s claim that it has been so charged by the Parliament of Trinidad and Tobago.</i></p> <p>Second, the right to freedom of expression is not (primarily) a right of media houses; it is the right of each and every citizen. Newspapers, television stations, radio and other platforms are simply the <i>means</i> of delivery of news, opinion and information of the individual citizens.<sup>9</sup></p>		<p>Association.</p> <p>The Authority repeats its comment that the <i>balancing</i> principle is derived from the reference to all of the rights and freedoms enshrined in the Constitution (as opposed to freedom of expression only) and also that it is consistent with the OfCom principle quoted by OCM</p> <p>The reference in the Code is to balancing the conflicting rights of <i>stakeholders</i>. The Authority does not suggest that only the media has a right to freedom of expression, though it is noted that in the context of regulating content, the Authority is regulating the content delivered via broadcasting services. The Authority notes that not all opinions delivered by the media are those of individual citizens.</p>

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		<p>Third, the OfCom Code on which the Authority draws extensively, if sometimes conveniently, makes no mention whatsoever of a 'balancing role'. What it does do, and wisely so, is to simply advert to the Human Rights Act and the European Convention. This is because OfCom is clear (as we are) that any 'balancing' is done by and in a court of law, and a regulatory authority is <b>NOT</b> a court of law.</p> <p>Fourth, the Authority has manoeuvred itself into this untenable position because it seems to be reluctant to acknowledge and embrace as paramount the right of freedom of expression as enshrined in the Constitution, even though Section 3(g) points it clearly in that direction.<sup>10</sup> If it were to do so (as has OfCom and the UK Parliament using there the Human Rights Act of 1998 and Article 10 of the European Convention), it would be erecting a regulatory framework with freedom of expression as its foundation principle. Without a foundation principle, TATT is condemning itself to operating and interpreting rules on shifting sands, 'playing God' or 'playing judge' where it has no business doing so. The end result of that will be an endless stream of litigation by broadcasters and complainants alike.<sup>11</sup></p>	<p>We strongly urge the Authority to abandon this notion of 'balancing conflicting rights'. It</p>	<p>We repeat our earlier comments on the issue of balancing rights. It is also noted that the final decision as to whether a breach has been committed and the penalty to be imposed pursuant to the Code and the Act, will be made by a Court of Law.</p> <p>The Authority does not agree the position to be untenable. We repeat our assertion that the explicit Constitutional guarantee in this country (as distinct from the UK) of the fundamental rights and freedoms makes it unnecessary to restate them in the Code.</p> <p>The Authority again reiterates the role of the Courts in the enforcement of the Code.</p>

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		<p>The Authority's position on the imposition of penalties for breaches of the Code is curious. Many of the comments it received on this score, including ours, were that the threat of imprisonment was wholly disproportionate to the nature of the breaches which might arise in respect of a Code.</p> <p>It is clear from the Revised Draft Code that the Authority envisages a process for the imposition of sanctions which flows through two streams. The first stream is clear and supported by</p>	<p>should hew closely to the language and the sense of the UK Code which has emerged from years of actual practice in an environment from which our own laws and jurisprudence have emerged. The Authority should speak about 'applying the rules' of the Broadcast Code. The rules themselves, developed after consultation with the industry itself, inherently will reflect some degree of 'balancing' and the Authority should go no further than that.</p>	

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		<p>the provisions of the Act although there is a huge gap in the process envisaged. Here, the Code is a consistent with the provisions of the Act. Licensees must adhere to the provisions of the Act and Section 23 specifically mentions the Broadcast Code in that regard. The Act, at section 65, then indicates that a (material) breach will attract fine or imprisonment. (Although the Act refers to materiality several times, it does not define it, but it would make sense to suggest that the imposition of sanctions under the Act must not be based on the frivolous or the immaterial.)</p> <p>The Authority seems to have discerned that this process alone would have left it bereft of the power to impose sanctions. All that it could do would be to make a finding of a material breach and then institute proceedings in court which would lead to the imposition of the section 65 penalties, or alternatively, make a recommendation to the Minister for suspension or for revocation of the licence of the offending broadcaster.</p> <p>The Authority has therefore sought to hang its power to sanction on the peg of section 18(1)(h), which states that the Authority must “implement and enforce the provisions of the Act and the policies and regulations made hereunder.” This is the second stream, and one which the Authority has chosen to construe in its own way as giving it the power to impose certain sanctions. However, suspension or revocation of a licence is clearly within the purview of the Minister and the only ‘sanctions’ which the Authority can impose are really ‘warnings’ and or ‘shaming’ the miscreant broadcaster. It is this lack of real power of the Authority which actually makes it</p>		<p>The Authority is unclear as to the purpose of these comments. They seem to restate the provisions in the draft document which outline the steps which will be taken by the Authority in the event that a breach of the Code is believed to have been committed by a concessionaire. For the avoidance of doubt, we make clear that the Authority is responsible for implementing and enforcing the Code. In the arena of sanctions this will be achieved through a system of warnings and sanctions as set out in Part D. The punitive sanctions comprise court proceedings or the suspension or termination of concessions by the</p>

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		<p>more difficult for broadcasters in that the Authority will in all likelihood be inclined to hasten to the drastic steps of suspension or revocation.</p> <p>An examination of Section 65 reveals the kinds of situations which may attract a fine of \$250,000 or 5 years imprisonment. We maintain that there is no conceivable material breach by a broadcaster which should attract the imposition of these penalties. The Act needs to point to a more appropriate set of penalties for breaches of the Broadcast Code compared to the penalties set out in Section 65.</p> <p><i>We reiterate our position that the imposition of huge fines and imprisonment would be wholly disproportionate to the nature of the breaches which might arise under the Code.</i></p>		<p>Minister. The Code has been amended to clarify the nature of the third level of sanction.</p> <p>The Authority does not agree that there are no situations in which a material breach of the Code could attract the imposition of the maximum sanctions applicable. The decision would be made by the Court having regard to its usual guidelines. For example, the offence of sedition carries the most severe penalties under the common law might be treated with under Rule 3.4 and might possibly carry the most severe penalties applicable under section 65.</p> <p>The Authority does not consider the possible fines to be disproportionate having regard to the possible breaches, and also notes that the decision as to the imposition of fines and/or imprisonment is left to the Courts. It is also noted that the penalties are contained in the Act, and that they were in place prior to the concessions and licences being</p>

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		<p>At several points in its responses, the Authority seems to bristle at the suggestion that some 'independent' body be involved the process of determining whether or not there has been a breach of the Code and claims with some emphasis if not stridency, that "The Authority is an independent body". The industry, and many commentators, seem to see the Authority as a politically-appointed statutory body, and therefore not independent of the political directorate. It is difficult on a reading of the relevant sections of the Act to discern how the Authority comes to the view that it is independent. The following would seem to be relevant:-</p> <ul style="list-style-type: none"> <li>• The Board is appointed by Cabinet</li> <li>• The Authority makes recommendations to the Minister and advises the Minister on policy</li> <li>• The Authority has no independent revenue-raising power</li> <li>• The Minister may give written directions to the Authority on matters of public policy</li> <li>• Concessions are granted or revoked by the Minister</li> <li>• The Authority has no power to impose penalties.</li> </ul> <p>In addition, in the realpolitik of Trinidad and Tobago today, it is very, very difficult to conceive of any statutory body taking a</p>		<p>granted to the various broadcasters, and are currently in place for breach of the concession. The penalties are not introduced by the Code.</p> <p>The Authority is a body corporate established by Statute, and has independent decision making powers. The Authority's decisions must be objective, transparent and non-discriminatory, and its regulatory decisions are made without the involvement of any outside party.</p> <p>The Authority notes that there are areas in which the Government has a responsibility pursuant to the Act, however, these do not prejudice the ability of the Authority to make objective, transparent, non-discriminatory decisions in respect of the Code.</p>

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		<p>position or making a decision that goes against the government of the day. Our judiciary is independent constitutionally and may make decisions which go against the government. The central bank, the longest established and most experienced statutory regulatory body in the country, is 'quasi-independent' in that it may make policy without explicit reference to the government but the governor will go if there is a fundamental disagreement with the government's monetary policy and it receives a directive from the Minister of Finance in that regard.</p> <p><i>It is perhaps better for the Authority to acknowledge its actual status as a statutory body and to open itself to working with a body like the Media Complaints Council in the process of determining whether breaches of the Code have occurred and the nature of the sanction or penalty which should be imposed. This is likely to lead to a process that is perceived by the industry to be more fair and will prevent the Authority from straying in a posture which could lead to abuse.</i></p>		<p>The Authority notes your comments. Firstly, the Authority's revenue raising power is independent based on Regulations passed in Parliament, and the Authority is currently entirely self funding. The Authority is an independent decision making body.</p>
<b>INTRODUCTION</b>				
1.A Introduction (Purpose)	Trinidad and Tobago Transparency Institute	<p>The last paragraph, last sentence reads, "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". Our comment are as follows"</p> <p>- We note with satisfaction the reference to 'ethical standards' because we are of the opinion that low ethical standards are at the root of the crime and corruption problems facing our country.</p>	<p>However, we would like to see that phrase revised to read as follows: <i>the promotion and maintenance of ethical and cultural standards</i>'.</p> <p>In the interest of transparency, we</p>	<p>This is not a matter for the Code, the information is available from the Authority upon request to the extent that it is in possession of the Authority. The Authority will consider TTTI's recommendations.</p>

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			recommend that a sentence be added to the paragraph to read as follows: <i>“Society is also entitled to full disclosure of the ownership of the providers of broadcasting services so as to be able to form a judgment as to whether or not there may be any bias, because of ownership, in the services being provided”.</i>	
1.B. Introduction (Objectives)	Trinidad and Tobago Transparency Institute	Bullet three refers to “television or radio services” specifically.	We recommend that that phrase be replaced by ‘ <i>broadcasting services</i> ’ as defined in 1 A PURPOSE and C Scope.	Noted
1.B Introduction (Objectives)	Martin Jones	The media is the most powerful teacher in the society. With reference to children and young adults, the Code should establish the parameters for the encouragement of responsible action by all relevant arms of the media. The young persons’ right to be informed and educated is greater than the fear of adults that children may be harmed or misled. Accordingly, the first objective related to children and young people should be the attached recommendation.	To ensure that the broadcasters actively assist the audience of children and young persons especially to develop a robust critical perspective while receiving what is transmitted in broadcasts.	The Authority is unable to implement this suggestion as it will involve dictating content to broadcasters which is contrary to the National Broadcasting Policy.
<b>INTERPRETATION OF TERMS</b>				
3.A Interpretation of	Martin Jones	The cumulative effect of the definitions and interpretation of	“Due impartiality” should	

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Terms		<p>terms used in the code is to maintain the unsatisfactory status quo. It valorizes the questionable concepts of ‘impartiality’ and ‘fairness’ (notwithstanding the caveat of ‘due’) and in the process taints the position of all ‘bias’ including political or religious. It then ensures the perpetuation of the status quo by defining the ‘reasonable person’ in relation to bias. This interpretative structure panders to the dominant ideology which thrives on a gullible audience and it will make the development of a questioning and critical populace more difficult. The Code should directly aim to develop such a critical attitude, especially among the young. Moreover, the privileging of ‘psychology and consensus’ in defining “sound social concepts” stifles the many other possibilities presented by other disciplines and experiences and denies the creativity that will come from a more inclusive interpretation.</p>	<p>be recognised as an ideal. Particularly in relation to broadcasts, it should involve a commitment to give voice to those groups and individuals who are systematically silenced either intentionally or not. It should also involve effecting a stringent, questioning stance towards all authority.</p> <p>“Expert opinion” – delete “recognised by a wide cross section of people” and insert “recognised as having expertise and extensive knowledge in the field”.</p> <p>“Reasonable person” delete “without highly biased opinions...extremist beliefs”. “Sound social concepts” delete “on psychology ...Trinidad and Tobago</p>	<p>The Authority notes your comments, however the proposed changes to the definitions would add uncertainty to the Code and make it difficult to enforce.</p>

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A: Interpretation of Terms – Children	Ministry of Legal Affairs	According to the UN convention on the Rights? of the Child, which our Government has ratified: “A <u>child means every human being below the age of eighteen years unless</u> , under the law applicable to the child, majority is attained earlier.”	Therefore the interpretation of children should be altered to reflect the age of eighteen (18) instead of fourteen (14).	Under the New Children’s Act a child is a person under the age of 18 years. The Code will be amended to address ‘older children’ and ‘younger children.’
A: Interpretation of Terms- Young Persons	Ministry of Legal Affairs	The interpretation of young persons is not clear. Will someone 13 years 6 months be considered both a child and young person?	Young persons refer to persons fourteen (14) years and over but under the age of eighteen (18) years	The Code will be amended to address ‘older children’ (14 to 18 years) and ‘younger children’(under 14 years)
A: Interpretation of Terms – Religious programme	Ministry of Legal Affairs	The interpretation of religious programme should be amended to deal with Hinduism which is not a religion but a religious tradition.	Insert the phrase “or religious traditions” after the word religion.	The Code has been amended accordingly.
<b>RULES – Protecting Children and Young Persons</b>				
3.C.1.6 & 1.7 Rules – Protecting children and young persons	TSTT	<p>It is noted that this Rule is not limited to non-animated children’s programmes and as such it could make some animated programmes e.g. Superman, Batman etc non-compliant with the Code. It is submitted that it may be unduly burdensome for an animated programme to also ensure that it appropriately portrays the consequences of a superhuman character’s violent acts on its victims and perpetrators.</p> <p>It is also recognised that only certain provisions of Rule 1 do not apply to optional packages or premium content by subscription broadcasters. Indeed TSTT recognises that this represents a significant amendment from the previous draft of the Code.</p>	It is submitted that this should be limited to non-animated programmes.	The Authority notes that 1.7 refers to realistic scenes of violence. The Authority considers that such scenes should be treated with care regardless of whether they are animated or non-animated.
C.1.1.14 Rules –	TSTT	The inclusion of this Rule essentially limits the broadcasting of	It is submitted that the	The Authority does not agree. The

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Protecting children and young persons – Nudity and pornographic material		any pornographic content (as defined) save in relation to the optional packages for subscription television broadcasters (subject to Rule 1.20). Nevertheless, it would arguably be very difficult to determine which nude scenes would evoke a erotic rather than aesthetic or emotional feeling. It is submitted that this is highly subjective and therefore a difficult issue to police particularly during the watershed period. Indeed it could be argued that some scenes could be regarded as pornographic without any nudity and similarly can some radio broadcasts.	Authority should exercise caution in making such findings as it could be largely subjective as to what content could be regarded as pornographic.	broadcaster must ensure that pornographic content is not broadcast on basic packages.
3.C.1 Rules – Protecting children and young persons	Martin Jones	The rules have the ostensible objective of ‘protecting’ children, but they do not adequately nor responsibly weigh the danger of denying children and young persons of the knowledge and information for their safety and well being. The rules must go beyond this simplistic position of ‘protecting children’ to facilitating the provision of a variety of sources of information so that children may develop a critical perspective on sources and information.	The caveat in 1.12 “unless there is a serious educational purpose” should be made a requirement for all stations, including primarily music stations, to have weekly fifteen minute programmes which discuss and deconstruct the major content of the stations’ latest programming. This educational requirement should include participation by a wide cross section of educators with expertise in teaching children at various ages and who must be familiar	The Authority is unable to implement this suggestion as it will involve dictating content to broadcasters which is contrary to the National Broadcasting Policy.

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			with the content. A representative for the Authority, with responsibility for monitoring the station should also be a regular participant.	
		<b>RULES – Harm, Abuse and Discrimination</b>		
3.C.2.1 Rules – Harm, Abuse and Discrimination	TSTT	<p>This Rule contains a blanket prohibition that equally applies to optional packages and premium content. Indeed the application of all the rules of this Code to optional packages and premium content represents a significant amendment from the previous draft of the Code.</p> <p>It is submitted that it therefore does not contemplate programming or documentaries that seek to address the reality of the issues of race, ethnicity, religion, sexual orientation, etc. It is recognised that such discrimination has been and remains a reality. While it can be appreciated that such discrimination should not be encouraged, it is submitted that it should nevertheless be documented and could form part of artistic/entertainment programmes. Rather it is submitted that it is the promotion of such discrimination that should be prevented and in any event should not apply to optional packages or premium content.</p>	It is submitted that the Code should not seek to conceal these realities. Rather if it is thought best to protect our children from this then it should either be allowable in the watershed and in any event permissible in optional packages and premium content. As such this clause should be revised accordingly or be included in Rule 2.10 as an exception.	The comment is noted. Rule 2.10 of the Code is amended to exempt optional packages and premium content from compliance with Rules 2.5 and 2.8. However, the exemption from Rule 2.6 has been deleted.
3.C.2.1 Rules – Harm, Abuse and Discrimination	Erica S. Mark	'Gender' rather than 'sex' is indicated	Replace the word 'sex' with 'gender'	The document has been revised accordingly.
3.C.2.1 Rules – Harm,	Ministry of Legal	Make consistent with the interpretation of religious programme.	Insert the phrase	The interpretation of Religious

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Abuse and Discrimination	Affairs		“religious traditions?” after religion.	Programme under the Code is” A programme which deals with matters of religion as the central subject, or as a significant part of the programme”.  The document has been amended accordingly.
3.C.2.2 Rules – Harm, Abuse and Discrimination	TSTT	TSTT recognises the need for the prompt correction and apology for incorrect or misleading information. It is also recognised that where a concessionaire has incorporated into its own news broadcast or other broadcast, content from other sources e.g. BBC, CNN, etc. (including local concessionaires in compliance with ‘must carry’ obligation) which is incorrect or misleading it would be reasonable for such concessionaire to broadcast the correction/apology during similar newscasts. However, where one is re-broadcasting content e.g. from BBC, CNN CNC3, CCNTV6 etc. which contain such incorrect or misleading information it would be genuinely unintentional. It is therefore submitted that if such providers (originators of the offending statement/information have issued a correction/apology and this is also broadcasted, that his should be sufficient to comply with this provision. The obligation to make such corrections would also be hindered by the fact that such re-broadcasting concessionaire may not be in a position to independently verify offending statements or incorrect information given that a concessionaire may not be in a position to independently verify the offending statements/information.	It is submitted that it should be expressly provided that the correction/apology by content providers that are re-broadcast entirely should be sufficient to comply with this Rule. This should be expressly provided.	The relevant guideline has been amended to address this issue.
3.C.2.3 Rules – Harm,	TSTT	It is arguably unfair for a concessionaire who is essentially re-	It is submitted that a	Noted

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Abuse and Discrimination		<p>broadcasting content of either other concessionaires or foreign content providers to be punished for the failure of such concessionaire or provider.</p> <p>In any event in relation to a concessionaire's "must carry" obligations it is submitted that any breach such a concessionaire should not be imputed on the other concessionaire. It should be the obligation of such concessionaire to implement and manage any Delay Facility and not the re-broadcasting concessionaire.</p>	concessionaire should not be found in breach of the Code where it results from the re-broadcast of another concessionaire's content whether in compliance with the 'must carry' obligations or not.	
3.C.2.5 Rules – Harm, Abuse and Discrimination	TSTT	Given that there are several television programmes that address the issues related to life in prison it is arguable whether they would be found to be non-compliant with the Code. As such and in line with Rule 2.6, it is submitted that Rule 2.5 should not apply to optional packages or premium content.	It is submitted that Rule 2.5 should not apply to optional packages or premium content.	See above
3.C.2.6 Rules – Harm, Abuse and Discrimination	TSTT	In keeping with the Authority's amendments to the Code to include Radio Broadcasters it is submitted that this Rule should similarly apply to graphic audio e.g. an assault, a rape, murder, etc. which can equally violent or graphic.	This Rule should be revised to include Radio broadcasts.	The Authority agrees. The document has been amended accordingly.
3.C.2.7 Rules – Harm, Abuse and Discrimination	TSTT	Given that there are several programmes that can arguably be said to include content which displays cruelty to persons e.g. Roots, Ben Hur, Moses, any programme including the crucifixion of Jesus Christ etc. It has in the past been hardly objectionable for such programmes to be broadcast even outside of the watershed.	It is respectfully submitted that Rule 2.7 be amended appropriately. In any event it is submitted that this Rule 2.7 should similarly not apply to optional packages or premium content.	Rule 2.7 contains an exemption to address such programmes.

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3.C.2.9 Rules – Harm, Abuse and Discrimination	TSTT	This Rule contains an absolute prohibition against the inclusion of details about suicide and self harm. Documentaries or other programmes about the death of certain persons would necessarily and often include some measure of detail of the particular suicide. Also given that self harm could include eating disorders it is unclear what details if any cannot be included in programmes especially in cases where such issues are addressed in order to educate persons about same.	It is submitted that such details should be avoided but where included should be justified by the context. This Rule should therefore be amended accordingly.  In any event it is submitted that it should not apply to optional packages or premium content and as such Rule 2.10 should be amended accordingly.	The Authority does not agree that details of methods should ever be included in broadcast content.
3.C.2.10 Rules – Harm, Abuse and Discrimination	TSTT	In its current form it is questioned what is the difference between Rule 2.6 and the proviso contained in Rule 2.10 save that the nature of the programming is not compliant with all the provisions of the Code. Given that a Broadcaster would have to similarly advise that such optional packages or premium content may not be compliant with the Code, it is submitted that the qualification to Rule 2.10 would make the exception moot.	It is submitted that Rule 2.10 should be amended appropriately.	The information required by Rule 2.10 should be given at the time of subscription, whereas as the warnings in Rule 2.6 must be given when the particular program is broadcast. In any event the reference to Rule 2.6 has been deleted from Rule 2.10.
		<b>RULES – Crime</b>		
3.C.3 Rules- Crime	TSTT	Again where a concessionaire is re-broadcasting content either from other concessionaires or from foreign content providers (entirely) it is submitted that such concessionaire should not be found to be in breach of the Code.	It should not be found to be a breach of the Code if a concessionaire is re-broadcasting the content	A concessionaire should at all times be regulated by the code, whether or not the contents are being re-broadcasted.

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			of other concessionaires or content providers (entirely).	
3.C.3.1 Rules Crime	Ministry of Legal Affairs	This rule is vague. Additionally does this apply to music that may be 'deemed' to incite violence etc?	Better clarification should be given to this rule.	The rule has been amended to clarify. In relation to music, the rule will only apply if the behaviour incited is criminal.
		<b>RULES – News and Public Affairs</b>		
3.C.5 Rules – News and Public Affairs	TSTT	Given that the Code only regulates Broadcasters and their broadcasts in Trinidad and Tobago, it is submitted that it should not apply to re-broadcasts of news programmes from foreign providers especially where they relate to issues abroad.	It is submitted that Rule 5 should only apply to locally produced news and public affairs programming and not to any content that is rebroadcast from foreign.	The Authority considers that all content broadcast in Trinidad and Tobago should be consistent with the Code regardless of source. The Authority has, however, included relief for news that is re-broadcast.
3.C.5 Rules – News and Public Affairs	Martin Jones	The requirement that producers and host(s) of talk shows and call-in programmes should declare their bias should be applied to all programmes and stations. In particular in relation to stations, the Telecommunications Authority should identify, on the basis of ongoing monitoring, the nature of the ideology, leanings or bias exhibited by the station. This should particularly relate to the source, nature and slant of the news items that the station transmits, taking into consideration the sources that are omitted. This will reduce the gullibility of the audience to be taken in by the stations' claims that it is 'fair and balanced!'.	The recommendation will be made in the section on Compliance and Enforcement below.	Comments are noted. However the Authority considers that the suggestions made would be an unwarranted infringement on the broadcasters constitutional freedoms.
3.C.5 Rules – News and Public Affairs	Ministry of Legal Affairs	This rule should be expanded.	It should include that when reporting statistics	The Authority agrees, the Code has been amended accordingly.

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			broadcasters must state their source.	
3.C.5.5 Rules – News and Public Affairs	TSTT	In relation to the re-broadcast of either other concessionaire's news or from foreign providers (entirely) it is submitted that it would unreasonable for the broadcasting concessionaire to be in possession of the evidence to support the accuracy of the news. It is recognised that this would be more applicable to cases where the Broadcaster has actually sought to record/report the happening of events themselves i.e. news reporting and should therefore apply to concessionaires who generate their own news programmes.	It is submitted that only concessionaires who engage in the production of news programmes should ensure they have the evidence to support the accuracy of their news. This should not apply to re-broadcasters and as such this Rule should be amended accordingly.	The Authority notes your concern but does not agree that re-broadcast news should be completely free of regulation on this issue. The Code has been amended to provide a more workable solution.
3.C.5.5 Rules – News and Public Affairs	One Caribbean Media Limited	At several points in the Annex to the Revised Draft Code, the Authority suggests that news reporting must be 'accurate'. It argues:-  <p style="text-align: center;">“The matters contained in the Code regarding news relate to accuracy, a matter which can generally be determined with adequate certainty. While editorial judgment is subjective, in the area of news it should not be permitted to interfere with accuracy. The Authority is not concerned with differences between news reports, it is concerned with inaccuracy.”(p.69)</p> In the Rules section of the Code, the Authority has outlined ten (10) rules relating to News and Public Affairs with the objective –“To <i>ensure</i> that news and current affairs, in whatever form are	Objective: In the area of news and current affairs, each broadcaster must furnish the Authority with a copy of its Editorial Policy and Operational Guidelines. This document must be made available to the public as the standard to which the broadcaster's News and Public Affairs programming will be held.	The Authority agrees to the first part of your recommendation, that is, that each broadcaster must create and furnish the Authority with a copy of its own Editorial Policy and Operational Guidelines (or an equivalent document). However, such documents must be consistent with the standards set out in the Code, which contains the standard to which each broadcaster's news and public affairs programming will be held. The Code has been amended accordingly.

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		<p>reported with due accuracy, balance and due impartiality.”</p> <p>While ‘accuracy’ is a laudable and unobjectionable goal, embraced in OCM’s own <i>Editorial Principles and Operational Guidelines</i>, media practitioners are painfully aware that accuracy is hardly a “matter which can generally be determined with adequate certainty.” ‘Facts’ which fall into the category of ‘adequate certainty’ are often not newsworthy. It is a fact that the offices of the Democratic National Committee were broken into, but the real ‘facts’, pursued relentlessly by Woodward and Bernstein were the cover-up of the involvement of the then president of the United States in the break-in. It is ‘editorial judgment’ that there was a real news story beyond the mere fact of the break-in at the Watergate hotel that led to the truth, and the eventual impeachment of Nixon. It is a fact that the Challenger shuttle blew up. The real story is that NASA ignored warnings from the manufacturers and its own engineers that the temperature at launch was too cold and would have compromised the integrity of the O-ring seals on the solid booster rocket. Those facts emerged after a long investigation. We therefore do not understand the Authority’s stricture that ‘editorial judgment’ must not ‘interfere’ with accuracy, as if ‘facts’ can ever be separated from the context in which they ‘occur’ or more accurately, are <i>perceived</i>.</p> <p>Another problem relates to semantics, the meaning given to words in different contexts and by different people in the same context. For the public health professional, the word ‘epidemic’ has a particular scientific meaning. For the layperson, it may mean simply that ‘a lot of people are sick’. The media often</p>		<p>The Authority considers this comment to be misleading. The selection of a story is a matter of newsworthiness. The statements made by a broadcaster having decided that a particular story is newsworthy must be factual and accurate. The editorial judgment is in selection, the reporting was of verified facts, and the Authority reiterates that the accuracy of information is an empirical matter, capable of assessment with reasonable certainty. The Authority is aware that the industry operates via guidelines which are consistent across various countries and media.</p> <p>The decision in the particular instance will be made based on the Authority’s reasonable interpretation of the issue and the broadcaster has the availability of</p>

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		<p>reflects the language and meaning of the man in the street and not necessarily the language and meaning of the scientific community. Is it accurate to say that there is a 'dengue epidemic'? From the perspective of the public health professionals at the Ministry of Health, the answer is 'No', because the statistical data do not meet the scientific definition of an epidemic. That perspective may run counter to what the man in the street is experiencing and expressing via the media, and he or she may view the media's attempt to be 'accurate' as part of a cover-up of the 'truth'. On the other hand, the health professionals will suggest that the media is being 'inaccurate'.</p> <p>The examples may be multiplied <i>ad nauseam</i>, but the fundamental issue is that editorial judgment is always applied to the 'facts' as presented to determine newsworthiness, whether there is some underlying 'real story' that is worth pursuing, or whether multiple meanings affect the interpretation of the reported events. This is not to excuse the fact that sometimes the media gets it wrong. But it is to say that the Authority cannot simply enjoin the media to be 'accurate' without a full appreciation of the context and the judgment applied to the facts as presented.</p> <p>In the interest of promoting balance and impartiality in News and Public Affairs content, the Authority offers a series of muddled guidelines that come dangerously close to putting itself into the News Director's chair.</p> <p>The exhortation against editorial commentary in news broadcasts, for example, borders on the hackneyed and archaic. In some of the most distinguished news programmes in the</p>		<p>redress through the Courts.</p> <p>The Authority repeats, editorial judgment is applied to determine whether a matter is newsworthy, whether the report as stated is sufficiently verified to be trusted as accurate. The Authority is not concerned about which stories a broadcaster or editor chooses to pursue, only the stories that the broadcaster decides to broadcast. At the stage of broadcasting the story must have been verified so as to ensure to a reasonable standard that the matters stated are accurate.</p> <p>The Authority notes the comments regarding editorial comments in the news. The Authority does not agree</p>

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		<p>world, the old standard of dry, bald facts presented without meaning has been replaced by news with attitude, based on analysis and, where warranted, on opinion. Taking the audience beyond the news and sifting meaning from mere facts is core to helping audiences understand what's happening around them. It is up to the media house to determine the style and personality of its News and Public Affairs Programming and to ensure that the country's laws and its own editorial policy guidelines are not breached in the process.</p> <p>It is noteworthy that while the Authority reproduces exactly the definition of 'due impartiality' from the UK Code, it omits the critically important last sentence from the UK Code definition which states that: "<b>Context, as defined in Section Two: Harm and Offence of the Code, is important.</b>" Indeed the emphasis placed on context in the UK Code is conspicuous by its absence in the Revised Draft Code proffered by the Authority.</p>		<p>that the inclusion of opinion in the news should be condoned, unless it is clearly distinguished from the facts presented in the newscast. The Authority's research indicates that this position is consistent with the best standards of modern journalism. The Authority agrees that the media house should have internal standards, however, it is incumbent upon the Code to set minimum standards which will apply to all broadcasters thereby preventing the harm that may be caused by a broadcaster who fails to implement policy or whose policy falls below acceptable minimums, or who creates an acceptable policy and fails to apply it.</p>
<b>RULES – Elections</b>				
3.C.6.1 Rules – Elections	Erica S. Mark	'which carry' is confusing	The first line should read 'broadcasters of news'	The Code has been amended accordingly.
3.C.6.1 Rules – Elections	TSTT	It is noted that this Rule specifically contemplates the local or general elections in Trinidad and Tobago and not to any other elections e.g. Tobago House of Assembly or Political Party elections. Given that the intention behind this Rule is the fair and balanced coverage and presentation of issues and viewpoints it is submitted that to limit the application of this rule to the coverage of Local and General Elections is	It is submitted that perhaps the Code should be made to apply to any and all elections in Trinidad and Tobago including internal party elections.	The Authority does not agree. The suggestion would be burdensome to enforce.

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		<p>insufficient.</p> <p>In any event where one is re-broadcasting content from foreign providers whether it be regionally or internationally such reporting while they ought to be may not be compliant with the Code. As such it is submitted that this Rule should be limited to actual coverage by concessionaires whether it be in Trinidad and Tobago or elsewhere.</p> <p>It is unclear what exactly constitutes the provision of a reasonable and balanced opportunity to all political parties. While it is unlikely that any political party may refuse to participate in coverage, from the Code it is only required that each party be asked once, or must a broadcaster leave the opportunity open?; Just as unlikely if a Broadcaster has already asked and such political party or person have declined before, can a broadcaster thereafter refuse to include a party or candidate?;</p>	<p>It is submitted that the Authority may wish to consider the possible opportunities for abuse of this provision.</p>	<p>Your comment is noted.</p>
3.C.6.1 Rules – Elections	One Caribbean Media Limited	<p>The Authority's objective in respect of elections coverage ['To ensure that .broadcasters present a sufficient range of information, views and opinions in a balanced manner to enable viewers (and listeners) to make informed political decisions'.] contrasts sharply with the principle stated in the UK Code – “To ensure that the special impartiality requirements in the Communications Act 2003 and other legislation relating to broadcasting on elections and referendums, are applied at the time of elections and referendums.”<sup>12</sup> The Authority's</p>	<p><b><i>The Authority must revise its objectives in respect of Elections Coverage and adopt a position closer to that outlined in the UK Code.</i></b></p>	<p>The Authority does not agree. The Code does not require any broadcaster to cover elections, however, it seeks to ensure that where a broadcaster decides to do so in a balanced manner.</p> <p>The Authority has considered carefully those provisions which are</p>

<sup>12</sup> It can be questioned whether or not viewers and listeners make 'political decisions' as distinct perhaps from electoral choices. In any event it is not the *responsibility* of the media to educate the electorate for which it should be held accountable by some government agency.

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		<p>objective is maintained despite its acknowledgment that coverage of elections is entirely at the discretion of the broadcaster who has no obligation whatsoever to pay any attention to elections.</p> <p>The Authority's objective thence leads it down a path which is wholly objectionable. It leads it for example, to relate the airtime given to political parties and persons contesting local and general elections to "the number of seats being contested by each party", a position which would require a broadcaster to give equal time to an established political party as to a fly-by-night organisation which happens to field a candidate in each and every constituency. The Authority has not seen the importance of embracing the UK Code concept of a 'series of programmes' as an important consideration in assessing 'balance' or 'due impartiality'. It leads to the puzzling stricture in Rule 6.3 –"Broadcasters shall not use race, ethnicity or religious beliefs as a basis for denigration of persons' political affiliation."</p> <p>By contrast, the Authority's Revised Draft Code omits several of the quite useful rules on elections coverage which are to be found in the UK Code including the publication of opinion polls, candidates acting as news presenters, etc.</p>		<p>included in the draft, and does not consider that further provisions are appropriate. Certain clauses are designed for particular issues which arise in the local context which are inapplicable to the UK, hence the Authority has not copied from the OFCOM Code, but has sought to create a locally relevant document.</p>
		<b>RULES – Fairness</b>		
Rules - 3.C.7 Fairness	TSTT	It is noted that the references in the Guidelines to this Rule need to be amended to Practice 7.1(i), 7.1(ii) etc.	The references should be amended accordingly.	Your comment is noted.

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		<b>RULES – Privacy</b>		
Rules - 3.C.8.1 Privacy	TSTT	<p>It has been made clear that a persons privacy is not to be infringed unless warranted.</p> <p>It is however noted that there are several programmes which utilise deception, surveillance, hidden cameras etc. to document persons committing acts which they would not ordinarily otherwise grant permission to be filmed e.g. 20/20, 60Minutes, Cheaters, Candid Camera equivalents. While in relation to documentaries such as 20/20 and 60 Minutes it can be recognised that the public interest can justify these as being warranted. It is however unclear in relation to programmes such as Cheaters whether such recordings can be similarly justified. While it is understood that the Authority may not be able to provide an answer thereto in this consultation it is submitted in relation to Practice 8(vi) that where a person has requested a recording to be stopped that the broadcaster has already recorded some coverage. Apart from live broadcasts it is submitted that a Broadcaster should be similarly prohibited from broadcasting such footage if the person involved has similarly requested him not to.</p> <p>It is submitted that it should also be made clear whether the blurring of the faces of persons who have so requested that their image not be broadcasted would be sufficient to maintain the privacy of the individual.</p>	<p>It is submitted that footage should not be broadcast where an individual has requested it not to be unless of course it is warranted.</p> <p>The Authority should advise whether the blurring or other distortion of images or sound to obscure one's identity is sufficient to preserve a person's privacy.</p>	<p>The recommendation is not inconsistent with the Practice set out in the Code.</p> <p>The Authority believes that as long the individual's identity is properly obscured this would be sufficient in most cases, though the matter would have to be determined on a case by case basis.</p>
		<b>RULES – Advertising and Sponsorship</b>		

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3.C.10 Rules – Advertising and Sponsorship	Martin Jones	10.3 in unenforceable. But the Telecommunication Authority's monitoring processes should take this as major factor in considering its analysis of the 'due impartiality' of the station's programming and news reporting, and this information should be part of the Authority's identification of the station.	The recommendation will be made in the section on Compliance and Enforcement below.	The Authority does not agree.
3.C.10.2 Rules – Advertising and Sponsorship	TSTT	In cases where foreign content i.e. channels are re-broadcast in their entirety it would not always be possible for the re-broadcasting concessionaire to know if the originating broadcaster has received sponsorship for a particular programme. While it is recognised this is a common practice it would be unfair for a concessionaire to be penalised if it is unaware. Rather it is submitted this Rule should only be limited to where a concessionaire itself receives sponsorship for programmes.	This Rule should therefore not apply to concessionaires who re-broadcast entire content.	Your comment is noted. The Code has been amended to address the issue.
3.C.10.3 Rules – Advertising and Sponsorship	TSTT	In the case of re-broadcasts of either other concessionaires or foreign content a concessionaire may not be able to conclusively determine that there is no influence by advertisers or sponsors on the reporting of news or current affairs.	It is submitted that this responsibility should only be borne by concessionaires who produce their own news and current affairs programmes and who do not broadcast such programmes pursuant to a 'must carry' obligation or where they re-broadcast entire content.	Your comment is noted. The Code has been amended accordingly.
3.C.10.4 Rules – Advertising and	TSTT	It is noted that in the responses to the Second Round of Consultation the Authority had noted that it is the duty of	It is submitted that this rule contemplates the	In the public interest the Authority

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Sponsorship		<p>broadcasters is to ensure the availability of scientific data to substantiate claims made with respect to health cures. In addition the Authority also noted that the Code does not regulate the advertising of foreign products and services.</p> <p>Given that most if not all health cures/medications are produced overseas it unclear when broadcasters are required to ensure the availability of scientific data. It is arguable that this will only apply to products and services manufactured/supplied locally.</p>	<p>issues of locally produced/packaged channels and does not adequately address the position regarding the rebroadcast of foreign channels. It should be made clear that the requirement for any such scientific data is to apply to situations where concessionaires are directly responsible for the sale and airing of such advertisements.</p>	<p>considers this important for all broadcasts regardless of source.</p>
3.C.10.5 Rules – Advertising and Sponsorship	TSTT	<p>It is noted that this Rule has been appropriately amended to limit the applicability to courses offered in Trinidad and Tobago. It is submitted that in the same manner other Rules of the Code should as previously noted, similarly amended.</p>	<p>Indeed it is submitted that all the Rules of the Code should be similarly amended to reflect the realities in Trinidad and Tobago.</p>	<p>The Authority does not agree. The treatment of particular rules will depend on the public interest and the likelihood of harm in each case.</p>
3.C.10.5 Rules – Advertising and Sponsorship	One Caribbean Media Limited	<p>The onus should not be placed on the broadcaster to include disclaimers or to state whether or not the courses advertised are accredited. The Authority should instead look to advertisers to uphold advertising standards on these and other matters in the interest of consumers.</p> <p>The requirement is particularly oppressive in placing broadcasters at a competitive disadvantage against print and</p>	<p>Rules 10.4 and 10.5 relating to health cures and educational courses must be removed.</p>	<p>The Authority does not agree. It is the broadcasters responsibility to comply with the Code.</p>

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		other media platforms which do not have to abide by a Broadcast Code.		
3.C.10.6 & 10.7 – Rules	Erica S. Mark	Both say the same thing	Omit Rule 10.7	The Authority does not agree. Children's programmes may be shown during the watershed period.
3.10.7 Rules – Advertising and Sponsorship	Erica S. Mark	Since 'outside the watershed' automatically indicates time allotted for children's programmes Rule 10.7 is redundant	Omit Rule 10.7	The Authority does not agree. Children's programmes may be shown during the watershed period.
C.10.7 Rules – Advertising and Sponsorship	Ministry of Legal Affairs	Is this rule consistent with the T.T.B.S. Standard Requirements for advertising Part 2 – Advertising to children TTS94 Part 2-2000? Will it be acceptable to advertise alcohol and tobacco during young persons programmes?		This rule goes further than the TTBS standard referred to, which standard is voluntary.  The concept of young persons has been deleted from the Code. The prohibition is now applied to all children's programmes.
3.10.10 Rules – Advertising and Sponsorship	Erica S. Mark	The primary responsibility for adequate parental control mechanisms lies with parents or 'loco parentis' by what means can a broadcaster enforce such, notwithstanding clause 9	Rule 10.10 should end at 'provisions of the Code' and the rest of the Rule deleted. The Guidelines in 9.1 are sufficient.	Parental control mechanisms refer to technical features which enable parents and persons in 'loco parentis' to effectively discharge their parental responsibility by controlling access to inappropriate content.
		<b>RULES – Religion</b>		

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3.C.11.1 Rules – Religion	Ministry of Legal Affairs	Religious denomination and religious doctrine are new concepts. They may need an interpretation or alignment with rest of draft.		Your comments are noted however the Authority believes that the usual English language meaning can be applied to these terms.
3.C.11.2 Rules – Religion	TSTT	It is appreciated that the issues relating to Religious dogma can be particularly sensitive and subjective. It is however also noted that on many occasions different religions may unintentionally discredit other religious philosophies. Given the various origins associated with different religions it is submitted that the word “attack” is vague and could include even reasonable criticism. It is queried whether the use of scientific or other documentary evidence used in the analysis of religious philosophies by other religious leaders could be concluded as breaching this provision.	It is submitted that the word “attack” be further clarified.	The Code has been amended accordingly.
3.C.11.4 Rules – Religion	Erica S. Mark	Line give: ‘facts’. Facts are by nature, disinterested and scientific	Delete ‘facts’	The Authority does not agree with your interpretation of the rule. The words “disinterested, scientific...” are intended to qualify only opinions.
3.C.11.6 Rules – Religion	Erica S. Mark	Since the possibility exists for the claim to be proven ‘yet’ should be included	‘not <b>yet</b> been proven’	The Authority does not agree that this is necessary. The rule already covers the possibility that this might be proven.
3.C.11 Rules – Religion	One Caribbean Media Limited	The matters that the Authority attempts to regulate under this heading are better left to the Editorial Policies and Operational Guidelines of the broadcaster.	Omit completely.	The Authority does not agree. See above.

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		<b>COMPLIANCE AND ENFORCEMENT – General</b>		
3.D.1.2 Compliance and Enforcement –General	Martin Jones	In connection with the two preceding items, the 1.2 will be expanded to include the following.	The Authority's monitoring system will identify the characteristics of programmes with a view to evaluate their contribution to the development of a maturing critical audience. Based on the analysis of the monitoring, the Authority will determine the nature of the station's programming and all stations are required to broadcast the full assessment of the Authority as part of their regular station identification at their peak audience times.	Comments are noted. However the Authority considers that the recommendation made would be an infringement on constitutional rights.
3.D.1.2 Compliance and Enforcement –General	TSTT	It is recognised that the procedure for Compliance and Enforcement has been amended. However, given that pursuant to Condition D8 of one's concession it is mandatory to comply with the Broadcasting Code it is nevertheless questioned whether the Authority can in addition to pursuing the sanctions		The Code does not propose to introduce new offences. The offences referred to in part D of the Code are an application of the relevant provisions of the Act. D.1.3

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		contained in the Code also prosecute a concessionaire for an offence under Section 65 of the Act. It is submitted that a Concessionaire could therefore be prosecuted under two different processes for the same breach and this would be unfair.		refers.
3.D.1.5 Compliance and Enforcement – General	Erica S. Mark	'Authority must' should read 'Authority shall...'	Replace 'must' by 'shall'	The Authority does not agree. Pursuant to section 65, it would be impossible to apply sanctions for any breach which is not material and therefore "must" is appropriate.
3.D.1.5 Compliance and Enforcement – General	TSTT	It is noted that the Authority would have to exercise a broad discretion as to what breaches are indeed "serious", "deliberate" and "reckless" and also what would constitute a "relatively short period". In this regard and in any case where the Authority makes a decision it should be required to provide reasons. This would be in keeping with the public law principles.	Accordingly there should be a general provision to provide reasons where the Authority makes any determination including where it exercises its discretion in doing so.	D 5.10 contains the requirement for the Authority to provide reasons in the relevant circumstances.
3.D.1.5,5.6(i), 5.9 Compliance and Enforcement – General	TSTT	The reference to Rule 3.5 should be amended to 3.4	The reference to Rule 3.5 should be amended accordingly.	The Code has been amended accordingly.
3.D.1.6 Compliance and Enforcement – General	Erica S. Mark	'which seeks to apply sanctions' is repetitive	Delete 'which seeks to apply sanctions'.	The Code has been amended accordingly.
3.D.3.1 Compliance and Enforcement – General	TSTT	Given the possibility that each subscription broadcasting television concessionaires could arguably transmit numerous channels at the same time and it would therefore be possible for different concessionaires broadcasting the same content to commit the same breach. It is submitted that the mechanisms		The Authority will ensure that all concessionaires are treated fairly and without discrimination.

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		employed by the Authority should ensure that all concessionaires are treated equally.		
		<b>COMPLIANCE AND ENFORCEMENT – Making a complaint</b>		
3.D.2.2 Compliance and Enforcement – Making a complaint	Erica S. Mark	'writing may' lacks clarity	'Writing and must do so....'	The Code has been amended accordingly.
		<b>COMPLIANCE AND ENFORCEMENT –\Consideration of Possible Breaches</b>		
3.D.4.3.e Compliance and Enforcement – Consideration of Possible Breaches	Erica S. Mark	'breach, however, in' is unclear	'breach, however in such case, the ...'	The Code has been amended accordingly.
3.D.4.2 Compliance and Enforcement – Consideration of Possible Breaches	TSTT	<p>By virtue of this clause appears that the Authority will be mandated to write the broadcaster in relation to any and all complaints. It is submitted that there should also be room for the Authority at that stage to also weed out frivolous complaints.</p> <p>Clause 4.2(h) implies that there may be different processes for different breaches. It is submitted that process to be applied should be clearly stated in the Code itself and not subject of variation at this stage. This sub-clause should therefore be clarified or deleted</p>	<p>It is submitted that the Authority should be entitled to assess and disregard frivolous complaints at this stage.</p> <p>It is further submitted that sub-clause 4.2(h) either be further clarified or deleted entirely.</p>	<p>Consistent with D.4.1 the process outlined for compliance and enforcement will only apply where the complaint identifies a potential breach of the Code.</p> <p>The Authority proposes to treat with the issue of frivolous and vexatious complaints in the Broadcasting Content Complaints Handling Procedures.</p> <p>There is no such implication. The clause merely requires the Authority to state the process (as outlined in the Code) in the notification.</p>

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3.D.4.3 Compliance and Enforcement – Consideration of Possible Breaches	TSTT	<p>In relation to the panel to preside over hearings, the term “Board” appears to be undefined.</p> <p>In any event the persons chosen to preside over any such panel should be suitably qualified and competent in the areas concerned. It is arguable that the Authority may for the purpose of such proceedings seek to retain independent professional persons to form part of the Panel. It is also noted that the constitution of the Panel is in the absolute discretion of the Authority and the broadcaster does not have the opportunity to make any recommendations as to whom should be selected or otherwise object to the composition thereof.</p>	<p>The term “Board” should be clarified.</p> <p>It is submitted that the Broadcaster in question should have the opportunity to recommend persons to form part of the panel and also to object.</p>	<p>“Board” refers to the Board of the Authority as defined in Section 5 of the Telecommunications Act, 2001.</p> <p>The Authority does not agree that it should allow broadcasters the opportunity to recommend persons to form part of the panel. The Authority is responsible for enforcing the provisions of the Act. Section 18 1 (h) refers. It would be inappropriate for the Authority to delegate its responsibility.</p>
3.D.4.5 Compliance and Enforcement – Consideration of Possible Breaches	Erica S. Mark	‘or doing of’ should read ‘or completing’ to avoid ambiguity	Change ‘doing’ to ‘completing’	The Authority does not agree.
		<b>COMPLIANCE AND ENFORCEMENT – Sanctions of Breach of the Code</b>		
3.D.5 Compliance and Enforcement – Sanctions for Breach of the Code	Erica S. Mark	The breaches outlined should be individually numbered so as to be clearly cited as per 5.2 and 4.2	The breaches should be numbered as 5.2(i) – 5.2(vi)	The Code has been amended accordingly.
3.D.5.51 Compliance and Enforcement – Sanctions Breach of the Code	Erica S. Mark	A time span should qualify ‘repeated breaches’ as holds in 5.3	The time span should increase with the severity of the breach, 5 years to the inception of the concession.	The Authority considers that the recommendation would be onerous however the Code has been amended to address this issue.

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3.D.5.1, 5.2 Compliance and Enforcement – Sanctions for Breach of the Code	TSTT	It is recognised that Clause 4 addresses the process for the Authority to reach a decision as to whether there has been a breach or not. Having done so Clause 5 then address the sanctions associated with the finding of a breach. In that vein, it is submitted that there should be some record of findings of breach and their associated sanctions should be maintained by the Authority particularly where the Authority seeks to avail itself of the provisions of Clause 5.4. in order maintain fairness of the application of the code and set precedents. The responsibility to keep such record and therefore ensure that the Authority applies the provisions of the Code fairly should remain with the Authority.	The Authority should be required to keep a record of all findings of breach and their sanctions particularly in relation to Clause 5.4 and make same available to the public or at least concessionaires.	This is in line with the Authority's procedures.
3.D.5.4 Compliance and Enforcement – Sanctions for Breach of the Code	TSTT	It is noted that the Authority would “generally” commence proceedings where a breach is serious, reckless or demonstrates contempt for the Code. This introduces a highly subjective element to serious and reckless and conduct. It is queried in what instances the Authority may view it not necessary to pursue this course.  The absence of such clarification or rules of application it is submitted that the application of this Clause should be limited to particularly serious breaches	The Authority should provide greater clarification as to the particular instances when Clause 5.4 will be employed.	Section 65 of the Act provides that an offence is committed when the concessionaire commits a material breach of concession. The Authority as the agency responsible for prosecution has a discretion as to when proceedings will be initiated. As a public body, the Authority must exercise its discretion reasonably.
3.D.5.5 Compliance and Enforcement – Sanctions for Breach of the Code	TSTT	Given that by Clause 5.4 the Authority is already empowered to commence proceedings for the commission of an offence it is unclear what other sanctions are available for particularly serious breaches. Furthermore given the logic provided for in 1.1-1.4 of this Part, it is submitted that only the sanctions that relate to the material breach of the Concession will apply. As such this apparent implication that other sanctions could apply	It is submitted that Clause 5.4 be amended to only apply to particularly serious breaches and in light thereof that Clause 5.5. be deleted.	The severity of the sanction refers to the various stages set out in clause D.5.2.

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		is misleading.  It is submitted that the proceedings under Section 65 should be limited to particularly serious breaches and as such this Clause 5.5. should be deleted and Clause 5.4 be amended accordingly		
3.D.5.6 (i) Compliance and Enforcement – Sanctions for Breach of the Code	Erica S. Mark	There is no Rule 3.5. Rather Rule 3.4 is indicated	Rule 3.5 should read Rule 3.4 also at 5.6.1;5.9	The Code has been amended accordingly.
3.D.5.6 (i) Compliance and Enforcement – Sanctions for Breach of the Code	Erica S. Mark	There is no Rule 12.1	'12.1' should be amended to '11.1'	The Code has been amended accordingly.
3.D.5.6 (ii) Compliance and Enforcement – Sanctions for Breach of the Code	Erica S. Mark	'the code that' is unclear	It should read 'the Code so that.....'	The Code has been amended accordingly.
<b>COMPLIANCE AND ENFORCEMENT – Termination</b>				
3.D.5.8 (i) Compliance and Enforcement – Termination	Erica S. Mark	'breach was committed' is unclear	Either delete 'was' or amend to 'that was'	The Code has been amended accordingly.
<b>COMPLIANCE AND ENFORCEMENT – Monitoring and Investigation by the Authority</b>				
3.D.3.1 Compliance and Enforcement – Monitoring and Investigation by the Authority	Martin Jones	Need to insert a 3.2	3.2 Based on the Monitoring and Analysis of this station during the three month period, this station has been identified ...	This proposal is not consistent with the current policy which states that the Government will not interfere in issues of genre.

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3.D (2) and (3) Monitoring and Investigation by the Authority	Kwesi L. Prescod	<p>Notwithstanding the concern above about TATT's apparent limited scope to act as a regulator of content (as opposed to the regulator of how content is broadcast), I would like to note that the process for TATT's investigation of a breach seems to be devoid of a transparent framework by which the accused may seek to respond to the claim of breach.</p> <p>First, in subsection (2), there is no provision where the broadcaster may respond to the complaint by a third party. The focus of the provisions seems to be TATT's obligation to respond to the reported complaint in a stipulated time.</p> <p>Secondly, to address the further question of investigation of a complaint, or proposed breach per TATT's monitoring framework, and the subsequent determination of any of the sanctions proposed, TATT has not appropriately defined the process to be undertaken. In fact, there is no provision established to:</p> <ul style="list-style-type: none"> <li>(i) Allow a broadcaster's response to complaint or claim in a given period;</li> <li>(ii) Allow for a hearing of the matter, where all appropriate materials can be considered and, in the instance of the many subjective caveats, a case be made for appropriateness of context of the offending material; and</li> </ul>	TATT must define a framework through which complaints or prosecution of breach are transparently reviewed and adjudicated upon.	The Authority notes your comments and disagrees. The provisions in Section D.4 of the Code address your comments.

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		<p>(iii) Allow for an adjudicative body, which is sufficiently transparently appointed to the satisfaction of TATT, to have oversight of the dispute. Question before the the broadcaster and the general public. This may be needed to mitigate against any claims (real or apparent) of contamination of the decision due to proximity to the investigation.</p> <p>This last point is most critical, as evidenced by the substantial effort undertaken in the UK's Communications Act, 2003 to establish an appropriate Content Board. Further, given the weight that context is now given in the Code, the appropriate establishment of this adjudicative body, whether standing or ad hoc, is essential to the acknowledgement by all parties of fair and unbiased decision making.</p> <p>Further, such a framework does not seem to be adequately addressed in the Dispute Resolution Provisions of the Act.</p> <p>Cumulatively, the effect is that there seems to be a presumption of guilt against the Broadcaster in the drafting of the Enforcement provisions of the Code.</p>	<p>Further, is establishing the adjudicative framework, TATT should be cognizant that there is an inherent conflict of interest in it being the investigator/ accuser and the judge in this regard. TATT should therefore establish an adjudicative framework where the Chair of the evaluating body is not:</p> <p>(a) a technocrat of TATT involved in the determination of the charge;</p> <p>(b) a person with a material interest in the claim before the evaluating/ adjudicative body.</p>	<p>Section 65 of the Act provides that an offence is committed when the concessionaire commits a material breach of concession. The Authority as the agency responsible for prosecution has a discretion as to when proceedings will be initiated. As a public body, the Authority must exercise its discretion reasonably. Further, the decision to prosecute is not in itself an adjudication of the matter, which will be in the hands of the court or the Minister as appropriate under the Act.</p>
		<b>GUIDELINES – Clause 1- Protecting Children and Young Persons</b>		

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4.B. – Guidelines to Clause 1 Protecting Children and Young Persons	Martin Jones	The Guidelines should be rephrased in the positive, and children should be re-conceptualised as active meaning making individuals more than as the vulnerable beings which the existing guidelines suggest. It appears that action is required to mandate that the Code address the contribution that broadcasting can make to positive development of young persons' critical consciousness. The failure to do so will be fatal to our society, and will stymie any hope of attaining 'developed country status by 2020.'	As per the first item of this submission, there is need for the Act to include an education focus for young people in particular, which would also benefit the adults in the society as a whole.	The Authority does not have the power to dictate content as this would be inconsistent with the fundamental rights and freedoms contained in Sections 4 and 5 of the Constitution.
4.B. Guidelines to Clause 1 Protecting Children and Young Persons	Ministry of Legal Affairs	What is the interpretation of the word 'adult' in line 3 paragraph 1?	Should define or use consistent language.	Adult refers to persons who have attained the age of eighteen years. However, in light of the nature of the Guidelines, the Authority does not consider it necessary to attach a legal definition.
4.B. Guidelines to Clause 1.2 Protecting Children and Young Persons	Martin Jones	The negatives in the first two paragraphs negate everything. I have an intuitive sense of what is intended, but I cannot disentangle any sense from the maze of negatives inserted, even after several re-readings.		The Code has been amended accordingly.
4.B. Guidelines to Clause 1.2 Protecting Children and Young Persons	Erica S. Mark	'period during which' is contradictory	It should read 'period outside...'	The Code has been amended accordingly.
4.B Guidelines to Rules 1.3 -1.5 Protecting Children and Young Persons	Martin Jones	The code should encourage all broadcasters to directly address the use, history, appropriateness and aesthetics of language in general, including obscene language. In fact, based on the monitoring process and the projections on the impact on young persons the Authority should be empowered to mandate that specific stations must host such programmes to sensitise their impressionable audiences.		The Authority does not agree. The Authority does not have the power to dictate content as this would be inconsistent with the fundamental rights and freedoms contained in Sections 4 and 5 of the Constitution.

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4.B Guidelines to Rules 1.3 -1.5 Protecting Children and Young Persons	Erica S. Mark	At line 7 'outside' is contradictory	It should read 'terms during ...'	The Authority does not agree. Outside the watershed refers to the time that is limited to material suitable for children.
4.B Guidelines to Rules 1.3 -1.5 Protecting Children and Young Persons	Martin Jones	The term 'great sensitivity' does not have useful meaning without the principles of children as meaning making individuals. The basic human rights of children to education and information must weigh heavily in this context.		The Authority notes your comment. However, the Authority does see the need to protect children to the extent set out in the Code.
4.B. Guidelines to Rules 1.3 - 1.5 Protecting Children and Young Persons	Ministry of Legal Affairs	There was a definition for young persons. What is the definition for young children? (see line 7)	Use consistent terms.	The Code has been amended accordingly.
4.B. Guidelines to Rules 1.6 – 1.8 Protecting Children and Young Persons	Ministry of Legal Affairs	There was an interpretation for young persons. What is the interpretation for young children? (see line 4).	Use consistent terms.	The Code has been amended accordingly.
4.B Guidelines to Rules 1.16 Protecting Children and Young Persons	Martin Jones	These guidelines call into question the perceived role of broadcasters in giving voice to young people under age 18. It is important that young people's voices are heard with the same caveats as talk show hosts who may present whatever views they wish once they declare their bias. Especially because the differences between the generations are the cause of so much social anomie, forums to reveal patterns of youth thought and expression are necessary preconditions for solutions and progress. The manipulation and eventual 'sanitizing' of youth views, as effected by these guidelines, will ultimately harm the society.	Broadcasters should be encouraged to include a wide cross section of youth opinion on the full range of public issues, and should be sensitive to the extremes to which youth are prone. They should apply the appropriate duty of care to individuals whose views are broadcasted.	The Authority does not agree. The Authority does not have the power to dictate content as this would be inconsistent with the fundamental rights and freedoms contained in Sections 4 and 5 of the Constitution.

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4.B. Guideline to Rules 1.16 Protecting Children and Young Persons	Ministry of Legal Affairs	The term 'younger children' seems to suggest that children are being put into categories. What will be the situation for older children? (see paragraph 2 line 2).	Use consistent terms.	The Guideline emphasises a need for distinction between older and younger children.
4.B. Guideline to Rules 1.16	Erica S. Mark	Line 7 'deliberately' is misplaced	It should read 'should not deliberately put...'	The Code has been amended accordingly.
		<b>GUIDELINES TO CLAUSE 2 - Harm, Abuse and Discrimination</b>		
4.B Guidelines to Rules 2.1	Martin Jones	I fully endorse these guidelines, especially (c) in the case of satire. Moreover, broadcasters should be required, beyond through satire, 'to reveal the contradictions or hidden agendas of their station's belief system' and operational conduct. Just as individual professional teachers are required to reflect critically on their practice, the nation's most influential teachers our broadcasters, should be required to do no less.		The Authority does not have the power to dictate content as this would be inconsistent with the fundamental rights and freedoms contained in Sections 4 and 5 of the Constitution.
		<b>GUIDELINES TO CLAUSE 7 - Fairness</b>		
4.B..7 Guidelines to Rules – Fairness	Martin Jones	Guidelines to Practice 7.3 'Persons ... who do not have the capacity to give consent either because of mental disability or emotional distress and trauma' need to be appropriately handled. Moreover, the Code insists, "In any event, persons not in a position to give consent should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent'. But this is all the more important as to why they should be afforded voice. The Code must positively encourage broadcasters to explore multiple ways through which the views, perspectives an experience of these traditionally excluded individuals and groups can be brought to the fore. It is the greatest travesty that the section of the Code relating to		The Authority does not have the power to dictate content as this would be inconsistent with the fundamental rights and freedoms contained in Sections 4 and 5 of the Constitution.

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		fairness should treat this group unfairly.		
Guidelines to Rule 7.1(iii) – Fairness	Trinidad and Tobago Transparency Institute		We recommend that the sentence be extended to read ' <i>and the identity of other contributors and their affiliations, if any</i> '.	The Code has been amended accordingly.
Guidelines to Rule 7.1(vi) – Fairness	Erica S. Mark	The wording is unclear	It should read 'information about whether ..... and 'programme, and whether they...'	The Code has been amended.
<b>GUIDELINES TO RULE 3 – Crime</b>				
Guidelines to Rule 3.1 – Crime	Trinidad and Tobago Transparency Institute	The word 'crime', as used generally in the Draft Code, is likely to be interpreted by most persons as referring to 'blue-collar crime', which makes daily headlines. However, 'white-collar crime' is an equally important element in crime and it is often the driving force behind much of the 'blue-collar crime'.	Therefore, in an abundance of caution, we recommend that the first sentence be revised to read 'Broadcasters have a responsibility to avoid the broadcasting of material that is likely to encourage the commission of <i>blue-collar and white-collar</i> crime or that may lead to disorder'.	The terms 'blue-collar' and 'white-collar' are uncertain. The Authority considers it is more appropriate to address all crime.
<b>GUIDELINES TO CLAUSE 4 – Race</b>				
Guidelines to Clause 4.4.1 - Race	Ministry of Legal Affairs	The use of terms 'Nigger' and 'Coolie' should be discouraged or banned.		An outright ban of these terms would be excessive. The Code treats with the abusive use of any language in Sections 2, 4 and 11.
<b>GUIDELINES TO CLAUSE 7 – Practice</b>				

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Guidelines to Practice 7.3	Erica S. Mark	Last line 'without such consent' is repetitive	Either delete this phrase or amend to 'answer in a decisive manner'.	The Code has been amended accordingly.
		<b>GUIDELINES TO CLAUSE 9 – Information and Warnings</b>		
Guidelines to Clause 9.9.1 – Information and Warnings	Ministry of Legal Affairs	The term 'younger children' again appears. See comment re Pg. 46. The term 'adult' appears again. Is there an interpretation?	Perhaps an Interpretation is useful or use consistent language.	The Guideline emphasises a need for distinction between older and younger children.  Adult refers to persons who have attained the age of eighteen years. However, in light of the nature of the Guidelines, the Authority does not consider it necessary to attach a legal definition.
		<b>GUIDELINES TO CLAUSE 10 – Advertising</b>		
Guidelines to Clause 10.10.6 – Advertising	Ministry of Legal Affairs	Is it really Clause 1.1? Or should it be guidelines to Clause 1? Or guidelines to Rule 1.1? The word 'minors' is now introduced. What is the interpretation?		The reference to minors is a typographical error. The correct reference is Rule 1.1 – Protection of Children and Young Persons. Note, that the Code has been amended accordingly.
Guidelines to Rule 10.7 – Advertising	Erica S. Mark	This sentence sounds unfinished	It should continue, 'product so as to not unduly influence impressionable minds'	The Code has been amended accordingly.
		<b>GUIDELINES TO CLAUSE 11 – Religion</b>		
Guidelines to Rule 11 Religion	Erica S. Mark	The Guidelines to Rules 11.2, 11.4, 11.5, 11.6 and 12.7 are all mis-numbered	Rule 11.2 . Remember the others 'Rules 11.3,	The Code has been amended.

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			11.4, 11.5, 11.6'. Guideline to Rule 11.3 should be deleted as redundant.	
Guidelines to Rule 11.6 Religion	Erica S. Mark	In the interest of clarity 'outside the watershed' is misplaced	Line 1 should read, must not, outside the watershed, make ....''	The Code has been amended.
		<b>COMMENTS ON "Decision on Recommendations"</b>		
<p><b>From the "Decision on Recommendations" (DORs)</b></p> <p>In response to:</p> <p>Anil Goorahoo – "Should TATT be responsible for regulating content?"</p>	Kwesi L. Prescod	"The Authority's mandate to regulate broadcasting services is derived from the Telecommunications Act."	As discussed above, the Act does not give TATT any mandate to regulate content.	The Authority's mandate is to regulate broadcasting services consistently with Sections 4 and 5 of the Constitution. This is interpreted as including a requirement that the Authority regulate content by balancing the rights and freedoms in those sections of the Constitution.
<p>TTPBA</p> <p>"Each rule with its specific provisions must be tested against s[ection] 4 and s[ection] 5 of the Constitution to ensure that there is no violation."</p>	Kwesi L. Prescod	<p>"It is internationally accepted that broadcasting media is regulated differently from print media because it differs in nature and degree of pervasiveness.</p> <p>The licensing requirement placed on electronic media is indicative of the difference in treatment."</p>	<p>This is disingenuous. There is <b>no</b> licensing requirement for electronic media – who regulates online newspapers and blogs?</p> <p>The licensing requirement for broadcasting is primarily borne from the use of the</p>	<p>Pursuant to the Telecommunications Act, 2001 the Authority has a jurisdiction to regulate broadcasting via any electronic media, including online broadcasting.</p> <p>In addition to the licensing requirement the Act also requires that a broadcaster hold a concession which is not related to the use of</p>

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		<p>“The Authority is of the view that the Draft Code pursues a legitimate aim and the measures are proportional to achievement of that aim and therefore cannot be viewed as unconstitutional”</p>	<p>scarce resource – radio spectrum.</p> <p>This response was repeated for similar concerns put forth by a <b>Mr. Beaubrun, Mr. Ragbir, the Thusian Institute</b> and others. This concern of the Code as drafted being unconstitutional has also been raised by many other quarters in the national community.</p> <p>Given the broad concern in this regard, this response is insufficient in my view and does not attempt to address the real issue raised. The response is flawed because it:</p> <ul style="list-style-type: none"> <li>- does not provide comfort that the concern addressed by TTPBA was considered, as</li> </ul>	<p>spectrum.</p> <p>The statement made by the Authority in response to the concerns put forth by a Mr. Beaubrun, Mr. Ragbir, the Thusian Institute and others is based on the advice of senior counsel on the constitutionality of the Code.</p>

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			<p>many provisions would fail such means tests; and</p> <ul style="list-style-type: none"> <li>- is not rationale and may not be defensible before an independent arbitrator. I doubt its soundness in law. A dictator can use this quizzical rationale to justify genocide.</li> </ul>	
<b>COMMENTS SUBMITTED BY THE MINISTRY OF PUBLIC ADMINISTRATION</b>				
<p><b>National Broadcasting Code for the Republic of Trinidad and Tobago</b></p>	<p>Ministry of Public Administration</p>	<p><b>GENERAL COMMENTS</b></p> <p>It is incumbent for clarity going forward and the institutional continuity of this regulatory regime that we state some of the past reasons that have been made to justify the regulation of broadcast and television in particular.</p> <ul style="list-style-type: none"> <li>• <b>“Spectrum scarcity”</b>: the need to create a system guaranteeing a well-organised use of a rare public resource (i.e., frequencies), in the general interest, and avoiding monopolistic or oligopolistic control over the airwaves by private broadcasting corporations;</li> </ul>		<p>Noted.</p>

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		<ul style="list-style-type: none"> <li>• <b>“Special impact on the formation of opinion”</b>: as well as on lifestyles, world outlooks, behaviour and consumption patterns, etc. Broadcasting is a major influence and catalyst for the formation of individual and collective opinions within the public sphere.</li>   <li>• <b>“Spread effect” or “multiplication effect”</b> that is achieved by no other (traditional) media: television is addressed to and received by an undefined number of viewers, reaching literally millions of viewers at a time (Gruñwald, 2003, pp. 4–5); The span of influence over individuals can be tremendous or unparalleled, therefore such an instrument needs to be guarded accordingly.</li>   <li>• <b>“Simultaneity of impact”</b>: not only the scale of impact was a decisive factor, but also the fact that content impacted on (and influenced) large numbers of people at the same time (potentially with great effectiveness ) e.g. Orson Welles and his alien invasion monologue in the USA.</li>   <li>• <b>“Suggestive power”</b>: the intrusiveness and persuasiveness of the purposefully designed continuous programming of moving images and sound, having a more intense and authentic effect on the viewer than written or oral information sources</li>   <li>• <b>“Unilateral control”</b>: the decision about what to see and when to see it is vested with the broadcaster; content is received in real time, as it is being disseminated; the viewer's role is limited to be a passive consumer of the information he is</li> </ul>		

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		<p>offered</p> <ul style="list-style-type: none"> <li>• <b>“Particular immediacy in the provision of content”</b>: especially in the case of live broadcasts.</li> </ul> <p>Some of the above reasons can now be challenged, but basically there is still much validity for the continued outlook that seeks to regulate these sectors in the manner prescribed by the current Code. Especially in the mainstream free- to- air networks who are enjoying spectrum privileges. In Trinidad and Tobago the advent of new media and increasing challenges to the effectiveness of the traditional regulation will certainly bring about a need for a new look at what tools can be deployed to maintain control over content emanating from these new or emerging sources.</p> <p><b>GENERAL COMMENTS</b></p> <ol style="list-style-type: none"> <li>1. The internet content that the government ministries and other agencies may produce and broadcast, how is that going to be regulated by TATT or included in the broadcasting code? Please keep the MPA informed about this issue.</li> <li>2. Can some measure be created and implemented in the interim to set a standard for broadcasting on the internet for Trinidad and Tobago? Our concern is that the MPA is promoting e-Business through EnterpriseNeTT, the online B2B Marketplace, and there should be a Code/Guideline for broadcasting via this medium from TATT. We are suggesting collaboration with the NICTC to produce a document to set standards for the content</li> </ol>		<p>The Authority does not at this time propose to regulate content transmitted via the internet.</p> <p>This can be considered, however it should be noted that the Authority would not propose for such a standard to be a binding document.</p> <p>The Code will not be subject to a further round of consultation. This is the final round of consultation prior to seeking to have the Code promulgated.</p>

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		<p>of national websites.</p> <p>3. When is the next draft of the Code going to be ready for comment?</p> <p>4. Has this Code deliberately sought not to represent the rights of broadcasters? Because it is incredibly skewed toward the viewing audience. The issue therefore is whether the appropriate balance is being struck between the rights of broadcasters to freedom of expression and, in general, the freedom of the press as opposed to the rights of citizens to respect for their private and family life.</p> <p>5. The restriction of alcohol and tobacco advertisements outside of the watershed period (i.e. 10:00 pm to 5:00 am) represents a significant loss of revenue to broadcasters. We believe it may be challenged by the public/ Broadcasters association.</p>		<p>The Authority disagrees strongly that this Code is skewed toward the viewing audience. The Code starts from the position of an unlimited broadcast environment and seeks to impose necessary and proportionate limited to address legitimate concerns.</p> <p>The Authority considers this to be a legitimate and proportionate limitation, and is one which we consider will be accepted by the broadcasters in the public interest. It is noted that tobacco advertising is largely if not entirely absent from the broadcast media, and the alcohol advertising, except during sporting events, tends to be limited to the later period.</p> <p>This has been corrected.</p> <p>The Authority is of the view that such an appendix would become</p>

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<p data-bbox="177 711 494 743"><b>“Watershed” - pg. 44.</b></p> <p data-bbox="177 1333 494 1399"><b>Due impartiality in News casts, on pgs 52-</b></p>		<p data-bbox="814 345 1642 488">6. Watershed is still defined incorrectly, see pg. 44. “The ‘watershed’ is the period during which material that is unsuitable for children <i>cannot</i> (this should read “CAN” or “MAY”) be shown. The watershed period commences at 2200 and ends at 0500 and therefore material unsuitable for children must not be shown outside this period.”</p> <p data-bbox="814 639 1642 782">7. The Code vaguely lists yet again that no form of cursing is appropriate including minor curse words. For clarity, there could therefore be an appendix listing these words, to identify if words such as “hell” and “damn” are included in this ban.</p> <p data-bbox="814 1114 1642 1222">8. “While broadcasters are entitled to editorial opinion, they have a responsibility to observe due impartiality in all matters of a controversial nature”. pg. 53</p> <p data-bbox="814 1260 1642 1399">It may be argued that if a broadcaster is expressing editorial opinion there is No need for impartiality. It is an opinion and therefore subject to freedom of speech (whatever such opinion may be). The Code can only require that the opinion be clearly</p>		<p data-bbox="2032 310 2499 634">irrelevant very quickly and would lead to less certainty, rather than greater certainty. Further, offensive language is defined not only by the actual words used, but also by their context. The Authority considers that “curse words” might be used in an inoffensive context, without breaching the Code.</p> <p data-bbox="2032 711 2499 854">The Authority does not agree. In the covering of news and current affairs broadcasters have a responsibility not to unduly mislead the public.</p> <p data-bbox="2032 1222 2499 1399">The Authority does not promulgate the Code, it is subject to affirmative resolution of Parliament. Further, the Authority’s “quasi-judicial” nature is questionable. The final</p>

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54 is stressed.		<p>labelled or represented as not representative of the views of the broadcast/media house. This Guideline may therefore be seen as biased.</p> <p><b>GENERAL COMMENT</b></p> <p>The Code, as an instrument promulgated by an administrative or quasi-judicial authority (i.e. TATT), is subject to review by the Court. In cases where parties feel that their fundamental rights are being undermined, as always, their right to access the Court as an avenue for final arbitration is available. On this basis even if we were to carry out a detailed review, it is unlikely to reveal all the possible or likely areas of contention.</p>		<p>decision in relation to any matter rests with the Court. The Authority is an administrative body.</p>
Deleted Section	Ministry of Public Administration	<p>It is noted that TATT has deleted the section on <i>Principles</i> on the basis that the <i>Objectives</i> are adequate enough to allow the former to be excluded. OBJECTIVES state the 'WHAT' to be achieved but PRINCIPLES govern the 'HOW'. It is important for TATT to state the regulatory principles it intends to use to administer and uphold the Code. For example a principle would be ... 'to be consistent in the application of the Code, i.e. similar situation, similar remedy. Another principle is to engage mechanisms to periodically review the validity of the Code, for instance every 5 years. Similarly another principle could be HOW to discharge its responsibilities under the Code; another, to seek extra-jurisdictional consultation or precedence where the Code is silent or where such advice might assist TATT in decision-making. Another principle might be that TATT could</p>		<p>The regulatory principles used by the Authority in all matters are stated in the Act, at section 18(4). The comment regarding cases where the Code is silent is confusing. If the Code is silent there is no matter on which the Authority might take action and therefore the matter is unregulated. The Authority operates strictly within the provisions of the Act and the regulatory documents which have been made under the Act. The Authority believes that the relevant principles are those contained in section 3 of the Act, as</p>

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		use forbearance on issues where the Code might be silent.		applied by the Authority.
<b>Section C. RULES 1. (Language – clause 1.3)</b>	Ministry of Public Administration	There should be ratings and warnings accompanying any programmes broadcasting Language, Violence, Sexual content, Nudity etc material as per below. This clause should precede these areas.	Clarify "most offensive language", as opposed to just "offensive language". Is 1.3 necessary in lieu of 1.4?	There is currently no appropriate rating system for use in Trinidad and Tobago.  The difference between the language is a matter of degree and the Authority considers it necessary to leave this to a matter of objective determination, rather than definition.
<b>Section C. RULES 1. (Violence – clause 1.6)</b>	Ministry of Public Administration	There is now animated material that appears quite life-like e.g. Japanese Anime which portray gratuitous violence.	This statement should not only deal with non-animated but other animated material that may apply.	Rule 1.7 covers any perceived gap.
<b>Section C. RULES 1. (Violence – clause 1.8)</b>	Ministry of Public Administration	"Carefully" is subjective.	Rephrase and include a parental suggestion or warning for such content.	The Authority believes that broadcaster must be left able to use their judgment in such cases.
<b>Section C. RULES 1.</b>	Ministry of Public Administration	Again use of "carefully"	State outright that such material must be	The Authority believes that broadcaster must be left able to use their judgment in such cases. The

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(Violence – <i>clause 1.9</i> )			accompanied by appropriate warnings.	requirement for warnings applies notwithstanding, based on Rule 9.
<b>Section C. RULES 1.</b> (Sexual Themes – <i>clause 1.10</i> )	Ministry of Public Administration	For it to be "inexplicit" defeats the purpose.	Rephrase to say "appropriately explicit" or "reserved".	The Authority disagrees, it is not necessary for such material to be explicit at all.
<b>Section C. RULES 1.</b> (Participation of children in programmes – <i>clause 1.16</i> )	Ministry of Public Administration	If a SEA student is asked if he/she is happy with his/her results should this require parental consent or the consent of the school?	Define "contributor".	Yes.
<b>Section C. RULES 1.</b> (Participation of children in programmes – <i>clause 1.17</i> )	Ministry of Public Administration	This applies to <i>production</i> and not necessarily broadcasting.	Clarify who is the responsible party for this clause.	The broadcaster is responsible for any content broadcast. While the producer may make any content which he or she wishes to make, the broadcaster may not broadcast it. The Code clearly and explicitly applies to the broadcast of material, not the making of it.
	Ministry of Public			Yes. The language in the Code is

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<b>Section C. RULES 1.</b> <b>(Children and Crime – clause 1.18)</b>	Administration	Is it sufficient to say "avoid broadcasting" as opposed to "not broadcast"?		designed for ease of use by broadcasters.
<b>Section C. RULES 2.</b> <b>(Harm, Abuse and Discrimination – clause 2.8)</b>	Ministry of Public Administration	Religious belief is a definitive and protected area and supported as such by the Constitution. Thus, by way of example, to classify exorcism (casting out of demons or spirits as described in the New Testament of the Holy Bible) as not real, while this is the religious belief of many, could be construed as an affront to one's religion.		The Code does not suggest that any belief is “not real” it addresses the broadcast of actions which may not real.
<b>Section C. RULES 2.</b> <b>(Harm, Abuse and Discrimination – clause 2.9)</b>	Ministry of Public Administration		This should read.... 'shall not be included <i>‘as’</i> a programme', rather than <i>‘in’</i> '; because it is widely shown in numerous programmes e.g. Gran Torino, Million dollar Baby, Law and Order, etc.	The detailed method should not be included. The programmes referred to discuss the self-harm, but are not “how to” manuals.
<b>Section C. RULES 4.</b>	Ministry of Public Administration	This seems to imply that all racial matters are necessarily controversial. "Racial matters" could include opinions based on		The Authority believes that all such matters should be treated with care, and where a viewpoint is expressed,

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<b>(Race– clause 4.4)</b>		scientific findings or historical events. This would suggest that they are not all necessarily controversial.		an opportunity must be given for varying viewpoints to be expressed. A statement of historical facts, without opinions would not fall foul of this rule.
<p><i>“What is the role of the broadcasting professional in helping to develop the rules and regulation in the future” – Comment made by Radio Tambrin Mr. James [pg 65]</i></p> <p><i>“The Authority will continue to work with the professional associations in development of the broadcasting sector” – TATT’S Decision to the comment made by Mr. James</i></p>	Ministry of Public Administration	This we feel is insufficient. TATT should have or develop a principle that will govern the role of the broadcasting body i.e. whether act in a consulting role, treated as general public, etc. Regulatory certainty is important. Guiding principles for engaging all stakeholders should be provided.		The Authority has consultation procedures which apply to all of its activities, and which it will continue to apply. It is unnecessary to go further than this.
<i>“Does the industry have the resources to ensure quality</i>	Ministry of Public Administration	Is setting the standards enough or should TATT consider committing resources to establish better appreciation of the		The Authority does not agree that the suggestion made by MPA is consistent with the comment, which related specifically to the Authority

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<p><i>broadcasting in T&amp;T? What we see and hear on the airwaves is the result of the above. What is the Policy?” – <b>Lennox Grant</b></i></p> <p><i>“The role of the Authority is to establish the regulatory framework. It is hoped that by implementation of a set of standards which broadcast content must meet, the necessary training and other resources would be implemented by broadcasters to ensure that their programming complies with the Code, thereby raising the standards generally” – <b>TATT's Decision to comments made by Lennox Grant [pg 65]</b></i></p>		<p>Code by the practitioners to bring them in alignment with the perspectives that TATT has taken in the Code. This could engender more commitment from the industry players. Workshop type sessions using stratified community members' involvement, to test their reaction to TATT's perspectives and/or to gauge whether TATT or the community are getting it right?</p> <p>Does the Act forbid the Authority to play a more participative role in bringing appreciation and sharing its perspectives with the broadcast practitioners?</p>		<p>training broadcasters. The Authority has held workshops with broadcasters in the past, however, any expenditure of funds to train broadcasters would likely be a discriminatory application of resources as it would benefit only this broadcaster who have not already spent their own funds in appropriate training. The Authority cannot commit itself, particular in a Broadcasting Code, to training broadcasters.</p>

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<p><i>“Under the second objective, who sets the standards? Standards evolve” – Anthony Hector</i></p> <p><i>“The Authority notes that standards do change and hence the structure and language of Code, will, it is hoped, allow the necessary flexibility to evolve with the standards” - TATT's Decisions to the 1<sup>st</sup> round of comments made by Anthony Hector [pg 66]</i></p>	Ministry of Public Administration	<p>TATT's acknowledgement that the standards do change is not enough. TATT is the body that will set the standards. In light of this it seems only fair that TATT also address the issue that standards must evolve and should also develop a principled approach in how they will handle this evolution process.</p> <p>We however question this flexibility since the language seems quite specific and makes no accommodation for the evolution referred to. The only flexibility is that the standards are not stated in specific measure in the document but left to the discretion of TATT.</p>	<p>This should probably read “...allow the necessary flexibility for the standards to evolve.”</p>	<p>The Guidelines will enable adequate adaptation of standards in the short and medium term, while long term significant changes would be achieved through review of the Code, following the consultation process for amendment of the Code.</p>
<p><i>“What measures are</i></p>	Ministry of Public Administration			<p>The introduction of a Code with rules for conduct is the first step in</p>

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<p><i>being put in place to train broadcasters on what should be aired and what should not? How will broadcasters be trained on the Code?" – Brent Williams</i></p> <p><i>"The responsibility for training their employees lies with the broadcaster. It is hoped that the standards in the Code will encourage greater emphasis on such training" -</i></p> <p><b>TATT's Decisions to the comments made by Brent Williams [pg 67]</b></p>			<p>TATT needs also to foster an environment that will encourage this training, or more fundamentally, this learning to take place.</p>	<p>encouraging broadcasters to train their staff to comply with those rules.</p>
<p><i>"Are there standards for media practitioners since many young journalists have no training?"</i></p> <p><b>– Tony Fraser</b></p>	<p>Ministry of Public Administration</p>	<p>The question is whether the Act expressly or by implication forbids TATT from engaging in this training. If not we believe</p>		<p>The Authority notes the inherent risks in the Authority training a broadcaster to follow rules which the Authority implements and enforces in the Courts. The Authority may then be required to validate its own training programmes before the Courts, and</p>

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<p><i>“The Code sets standards for broadcast content. The Authority does not mandate the training or other experience required for media workers, believing that this is a decision for the broadcaster. The Broadcaster will now be required to ensure that appropriate training is given to meet the standards set out in the Code” - TATT's Decisions to the 2<sup>nd</sup> round of comments made by Tony Fraser [pg 67 &amp; 68]</i></p>		<p>that TATT should provide a seasonal forum for this level of sensitization.</p>		<p>any defect in the training programme would make the Authority responsible for the broadcaster's failure to comply with the Code. At this stage the Authority considers that such a course would be unwise.</p>
<p><i>“TATT should help the media develop their own</i></p>	<p>Ministry of Public Administration</p>			<p>The Authority does not agree. The Code sets out the matters which are prohibited. Broadcasters, or at least</p>

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<b>Document Sub-Section</b>	<b>Submission Made By: Stakeholder Category<sup>1</sup></b>	<b>Comments Received</b>	<b>Recommendations Made</b>	<b>TATT's Decisions</b>
<p><i>standards”</i>  <b>– Anil Goorahoo</b></p> <p><i>“The Code sets minimum standards with which the media must comply. The Broadcasters should be responsible for ensuring that their internal processes and standards result in compliance with the content standards set out in the Code”</i> - <b>TATT's Decisions to the 1<sup>st</sup> round of comments made by Anil Goorahoo [pg 72]</b></p>		<p>The Code consists of Rules with appended Guidelines that assist in interpreting and applying the Rules. But in regard to standards (i.e. stating the norm, the deviation from which an offence can be measured), these do not exist. We cannot therefore say that the 'Code sets minimum standards'.</p>		<p>the best broadcasters, would set standards which go beyond the requirements in the Code to produce the highest quality broadcasting product. Note for example that the BBC has a book of standards which is far more stringent than the provisions in the Code. Accordingly, the Code sets the minimum acceptable level of broadcasting in the areas which it covers, but will not by itself improve the quality of broadcasting to the highest levels.</p>
<p><i>“Is there a reason why Tobago only has one radio station and one TV station? Can the application process be</i></p>	<p>Ministry of Public Administration</p>	<p>What is the regulatory principle governing the distribution of licenses or what determines when there is a need for additional stations (population dispersion, available spectrum, more enabling technology etc., or a combination of reasons)?</p>		<p>Concessions and licences for free to air broadcasting are granted in accordance with spectrum availability, through competitive processes based on criteria which</p>

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<p><i>opened”</i> – <i>Ms. Dowell</i></p> <p><i>“The Authority has issued an RFP for one additional radio station in Tobago.</i></p> <p><i>With respect to TV, the Authority issued an invitation to qualify for 2 Tobago stations in late 2007 but no one applied” - TATT's Decisions to the comment made by Ms. Dowell [pg 80]</i></p>				<p>assess the ability to successfully own and operate a broadcast station. Concessions for broadcasting services which do not require a concession are granted on a first come first served basis based on the same criteria as competitive processes.</p>
<p><i>“If a broadcaster criticizes the COP or asks “How did we allow a man like Panday to become Prime Minister?” Would that</i></p>	<p>Ministry of Public Administration</p>	<p>In the absence of standards, TATT must necessarily make decisions on offences that draw conclusions, particularly from their relation to the circumstances.</p>		<p>This comment is a statement.</p>

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<p><i>be considered unjust or unfair? What is unfair? Who deems it so? The press can do the above”</i>  <b>- TTPBA</b></p> <p><i>“The Authority will not in this document attempt to determine whether a particular statement would be unjust or unfair under the Draft Code. In making such a decision, it would have to consider all the circumstances at relevant to the particular material broadcast.</i></p> <p><i>Note that Clause 7 i to vii outlines practices to be followed by broadcasters in order to avoid unfair treatment of individuals and</i></p>				

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<i>organizations”</i> - <b>TATT's Decisions to the 11<sup>th</sup> round of comments made by TTPBA [pg 88]</b>				
“How is internet regulated by the Code?” – <i>Dianne Antoine</i>  “Internet broadcast is not regulated by the Code” - <b>TATT's Decisions to the comments made by Dianne Antoine [pg 90]</b>	Ministry of Public Administration		TATT should give consideration to informing the Minister that the scope of the Act does not empower them to regulate the full spectrum of broadcasting (in its strict sense, broadcasting would include audio/visual streaming on the internet as well) and that this should be the subject for future consideration and amendment to the Act, if the objectives of the Code are to really redound to the benefit of the whole of society.	The Authority's response is that the internet is not regulated by the Code. The Authority's comment does not identify a lacuna or shortcoming in the Act. Consistent with current international regulatory trends and best practice, the Authority does not seek to regulate content posted on the internet at this time.
“A <i>draft Broadcast</i>	Ministry of Public Administration		In order to derive the	The consultation process obtained

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<p><i>Code document should be designed so as to present different options that are available for consideration in a working document form”</i>  – <b>Winston Ragbir</b></p> <p><i>“The Authority considers the proposal unwieldy, particularly in these circumstances” -</i>  <b>TATT's Decisions to the 8<sup>th</sup> round of comments made by Winston Ragbir [pg 92]</b></p>			<p>standards noted above, TATT should consider interaction with the stakeholders in informal group sessions to get a feel for the values, interests and perceptions of the 'ordinary, the sophisticated, the educated and even the unprincipled' persons in society.</p>	<p>the input that is referred to in the comment. The approach suggested would have led to regulatory paralysis having regard to the length of time required for consultation even on an existing draft of the Code.</p>
<p><i>“Does the Code restrict the broadcast of some calypsos whose content may be considered derogatory?”</i> – <b>Dr. Sandy</b></p>	<p>Ministry of Public Administration</p>	<p>Under satire or humor the content could still be considered offensive, no?</p>		<p>Offensive content is not prohibited. The Authority considers that clearly satirical and humorous content should not be discouraged by the Code, as it is a necessary tool for social commentary and has limited or no potential for harm to any</p>

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<p><i>“Whether content is in breach of the Code will be determined by the Authority based on the context.  Note that calypso music may fall under the exception of satire and humour. See also Rule 12.3.” - TATT’s Decisions to the comments made by Dr. Sandy [pg 105]</i></p>				<p>person.</p>
<p><i>“The statement that “the only biological basis of race lies in genetic groupings based on markers which do not reflect phenotypical or behavioural traits” requires review by an</i></p>	<p>Ministry of Public Administration</p>	<p>The concept of ‘nationhood’ seems to imply unity and the Code seems to be promoting a united front by the society on the issues of broadcasting. Similarly, regulation seeks unity by promoting its use and fostering a common understanding of the standards it advocates. TATT in effect is promoting the values inherent in nation-building of which unity is a key objective. Where does patriotism lie? Does freedom of expression cover unpatriotic acts or expressions?</p>		<p>The Authority considers that the limitation of unpatriotic speech would not be a legitimate exercise of its mandate and would be unconstitutional.</p>

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<p><i>expert in genetics or biology; some biologists suggest that there is no biological basis for a concept of race at all”</i>  <b>- One Caribbean Media Limited</b></p> <p><i>“Noted. The Authority has revised the language”</i> - <b>TATT's Decisions to the 17<sup>th</sup> round of comments made by One Caribbean Media Limited [pg 110]</b></p>				
<p><i>“Why does this section approve racial satire?”</i>  <b>- Indo-Trinbago Equality Council</b></p> <p><i>“The Code does not seek to reduce freedoms granted in the Constitution. If the content is clearly satirical, the</i></p>	<p>Ministry of Public Administration</p>	<p>This does not fully address the question.</p>	<p>The part of the Constitution that validates this should be quoted here; or if this is a learning that has developed out of our constitutional jurisprudence, then we should so state.</p>	<p>The relevant part of the constitution is freedom of expression. The issue is a matter of ensuring that a limitation of a right is legitimate and proportionate to the objective. The potential for harm as a result of purely satirical comment is insufficient to justify limiting freedom of expression.</p>

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<p><i>Code cannot seek to prevent its broadcast.</i>  <i>The Code has been revised to provide that it must be clear that the content was satirical” -</i>  <b>TATT's Decisions to the 14<sup>th</sup> round of comments made by Indo-Trinbago Equality Council [pg 111]</b></p>				
<p><i>“Need to clarify instances when broadcasters are required to make clear their political ideology or viewpoints”</i>  - <b>Columbus Communications</b></p> <p><i>“This proposal may not be practical to implement” -</i> <b>TATT's Decisions to the 6<sup>th</sup> round of comments</b></p>	Ministry of Public Administration	A politically motivated broadcaster can use the airwaves as a tool to manipulate the views and outlook of the public. A conflict of interest could be established in such situations. As with the general case of conflicts of interest, a declaration of any conflicting or undue self interest is usually required by the party involved	Where possible to enforce, political affiliations should be made known. There is some merit in this comment.	The specific recommendation made by CCTL (as opposed to the comment stated here) would have expanded the requirement stated in the Code to an impractical extent.

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<b>made by <i>Columbus Communications</i> [pg 114]</b>				
<p><i>“If a concessionaire is forced to follow this stated edict, talk show programmes will have the consistency of baby food – soft, tasteless, with no spice and solids. Creativity would be effectively neutered. No one brought up in vibrant, exciting Trinidad and Tobago is going to accept such dull programming and there will be a mass exodus to cable television along with advertising revenue. This will be unfair to local broadcasters and will do nothing to boost the local entertainment industry. Any suggestion</i></p>	<p>Ministry of Public Administration</p>	<p>Controversy on social and cultural issues as a form of entertainment - should this approach be condoned?</p> <p>Behaviours that are considered cultural norms or customary could still qualify as offensive when looked at in the broader context of reasonableness and fairness of treatment. For example insults disguised as ‘picong’, or ‘ole talk’.</p>		<p>As stated above, the issue is not whether or not a particular act “should be encouraged”, the issue is whether the likely harm justifies limitation of freedom of expression. The Authority considers that in a democratic society which adheres to the principles stated in the UN Declaration on Human Rights and the Chapultepec Declaration, ‘picong’ is a legitimate exercise of freedom of expression, and the possible harm caused by it does not justify any limitation. Any attempt by the Authority to do so would be excessive and arguably unconstitutional. This is consistent with regulation in virtually all democratic free societies.</p>

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<p><i>that this part of the proposed Code will result in a nice, well-mannered society which displays social grace and civil behaviour must be viewed as a deliberate attempt to disguise the real and dangerous effect of the provision which is the loss of freedom of speech. This violation of the Constitution is unjustifiable in a democratic society” -</i></p> <p><b>29<sup>th</sup> round of comments made by TTPBA [pg 119]</b></p> <p><i>“The objective is legitimate and the measure contained in the Rule is proportionate to achievement of the objective”- TATT'S</i></p>				

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<i>Decision</i>				
<p><i>“The Code is not about making law. In fact the provisions of the Code cannot go outside of existing laws including and especially the Constitution. Each concessionaire is bound by the law and must adhere to the provision of the Constitution including s.4 (c), which provides for the right of the individual to respect for his private and family life.</i></p> <p><i>Remove Rule and Objective” - TTPBA [pg 121]</i></p> <p><i>“The Authority is responsible for “regulating broadcasting services” in accordance with (S.3) of the Act</i></p>	Ministry of Public Administration	The Broadcast Code is directed towards deterring specific breaches by the broadcaster in respect of broadcast material or practices. Even though other laws may cover them there is still a place for the Broadcast Code in the event there is forbearance in the enforcement of the other laws.		

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<i>and the practices of concessionaires of broadcasting services” in accordance with (S.79) In regulating broadcasting services, the Authority is required to balance the rights of broadcasters against the rights of individuals under the Constitution” – TATT’S Decision</i>				
<p><i>“On certain ‘children channels’, the advertisements for programmes to be aired after the watershed are broadcast. This defeats the purpose”</i>  <b>- Tonia Gooding</b></p> <p><i>“The Code provides that the same Rules that apply to programming shall apply to</i></p>	Ministry of Public Administration	Clearly this implies that if the content of the advertisement of the programme to be aired in the watershed is suitable for broadcasting, by the broadcaster, outside the watershed, that TATT would deem this permissible.		This is correct. While the programme may be unsuitable for broadcasting outside the watershed, provided that the advertisement itself contains only material suitable for children, it can be aired outside the watershed.

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<p><i>advertisements. Therefore any advertising content that is unsuitable for broadcast in a children's programme or before the watershed will be in breach of the Code" - TATT's Decisions to the 4<sup>th</sup> round of comments made by Tonia Gooding [pg 129 &amp; 130]</i></p>				
<p><i>"TTBS Standards banned tobacco ads on TV and is responsible</i></p>	<p>Ministry of Public Administration</p>	<p>This response does not fully address the issue that TATT may not be able to discern or monitor cases without the help of other</p>	<p>Agency feedback can be a method TATT can</p>	<p>The Authority does not agree that the response to the comment did not answer the comment. The Authority</p>

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<p><i>for monitoring ads for pesticides electrical and measuring equipment. TTBS also monitors ads e.g paints (ISO 9000) and environment (ISO 14000). TATT does not have the expertise to monitor this”</i>  <b>- Dr. Michael Lines</b></p> <p><i>“Noted. Broadcasters also have an obligation to comply with the existing law as it relates to advertising or any other issue” - TATT’s Decisions to the 1<sup>st</sup> round of comments made by Dr. Michael Lines [pg 131]</i></p>		<p>agencies.</p>	<p>employ for monitoring compliance of advertisements with existing laws, so as to ensure that such laws are not breached.</p>	<p>has more than adequate ability to monitor the broadcast of tobacco and alcohol advertisements between the hours of 5am and 10pm. Agency feedback is irrelevant in this case, particularly as it is noted that the particular TTBS standard referred to is voluntary.</p>
<p><i>“We reject this position in toto as it is tantamount to shooting the messenger”. First,</i></p>	<p>Ministry of Public Administration</p>		<p>What about considering the use of an alternate statement where the</p>	<p>The Code makes both options available to the broadcaster. The broadcaster must either ensure that</p>

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<p><i>the Authority needs to address advertisers and advertising standards separately and directly, perhaps through a separate code directed to them.</i></p> <p><i>(Note that where broadcasters have their own in-house editorial codes, these can and do speak to advertising integrity). Second, it is wholly impractical for a broadcaster to monitor and substantiate advertising material submitted for broadcast; the cost of attempting to do this would be so onerous that it would effectively cripple the industry. The Authority's position does not at all make clear what is involved in „substantiation“, but in the accepted meaning of that term, the broadcaster (and</i></p>			<p>broadcasters provide a <b>disclaimer</b> in cases where they are unsure or scientifically unable to prove the validity of the outcome the product or service seeks to assure.</p> <p>More generally, broadcasters should not have a duty 'to ensure the availability of scientific data to substantiate claims...'; but merely a duty 'to indicate whether scientific data which <b>purports</b> to substantiate claims...<b>has been made available</b> to the broadcaster. Similarly, broadcasters should not have a duty 'to indicate whether or not a particular course is accredited'; but merely a duty 'to indicate whether information that purports to provide proof of accreditation has been made available to the</p>	<p>he has been provided with, or can obtain the required proof, or broadcast a disclaimer.</p>

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<p><i>presumably each broadcaster individually) will have to assemble irrefutable scientific evidence on the validity of a „health cure“ or investigate the accreditation of some educational institution advertising its services. We cannot accept this position in any shape or form” - 22<sup>nd</sup> round of comments made by One Caribbean Media Limited [pg 132]</i></p> <p><i>“The duty of broadcasters is to ensure the availability of scientific data to substantiate claims made with respect to health cures. The document has been revised for</i></p>			<p>broadcaster’.</p> <p>In either case, where such information is in fact made available, the broadcaster should issue the follow-up <b>disclaimer</b> that ‘the broadcaster makes no representation as to the accuracy or validity of the information supplied’. Of course, where no such supporting information is supplied, the broadcaster should merely indicate that ‘no information has been supplied in support of the claim [or in support of accreditation] as the case may be.</p>	

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<i>greater clarity” - TATT'S Decision</i>				

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**ANNEX 2 – Decisions on Recommendations made in the Second Round of Consultation**

The following summarizes the comments and recommendations received from stakeholders on the second draft of this document (dated 5 August, 2008), and the decisions made by TATT as incorporated in the third draft document (dated 15 December, 2008).

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<b>GENERAL</b>				
	Vernon Allick	What is this document trying to say?		This is a consultative document which affords affected persons and the public to make appropriate submissions on a proposed broadcasting code for the Republic of Trinidad and Tobago.
	Vernon Allick	<p>Were it not for the UK OFCOM's (Office of Communications) Broadcasting Code of 2005, would the T&amp;T draft (which in many respects has carbon-copied the OFCOM's document word-for-word) have seen the light of day?</p> <p>Can the same question be asked with respect to Viewer Advisories taken from the Canadian Association of Broadcasters' Violence Code.</p> <p>The TATT Draft Broadcast Code of April 2005 was, in fact, the 1998 UK Broadcasting Standards Commission's 'Code on Broadcasting. Now in 2008, it is the OFCOM Code, the successor to the previous UK document.</p> <p>It appears that the Ofcom Code was the only research</p>		<p>The drafters have modelled the redrafted Code primarily on the OFCOM Code. It was considered unnecessary to start afresh where suitable provisions could be adopted from other codes that have been successfully implemented elsewhere.</p> <p>The drafters of the Code reviewed several models, including codes from regional as well as other international sources. It was considered that the OFCOM code in particular was most adaptable to our local circumstances.</p>

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	Lennox Grant	document (and the CAB Violence Code, to a lesser degree) available to the panel which seemed deficient in its composition of all-round seasoned broadcast personnel. Instead of being used as a guide, the Ofcom code is basically the TATT draft and is, perhaps, expected to be accepted.  Large chunks of the Code are taken from the OFCOM Code. What permission was granted by OFCOM?		Permission was sought and obtained from OFCOM.
	One Caribbean Media Limited		The UK Code format should be retained in which for each section of the Code dealing with Protecting Children, Harm and Offence, Crime, Fairness, Privacy, etc., the Principles are articulated, followed by Relevant Legislation if any, the specific Rules, and Guidance relating to each rule. This will make for easier reading and reference for users of the Code.	The structure of the document is intended to ensure that the rules are as clear and certain as possible to enable them to be enforced and also to introduce some flexibility to the Guidelines.  Changes have been made however to improve the clarity of the document.  The current legislation relevant to many of the sections is in significant transformation and accordingly this would seem an unwieldy format. Further, the need for the Code to be passed by affirmative resolution of Parliament made it appropriate to separate rules from guidance.
	Vernon Allick	Not enough time might have been spent on the drawing board and it is evident that the draughts persons did not see merit in much else but the Ofcom Code. They have certainly		The Authority does not agree. The fact that the draft embodies concepts and principles adopted

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		not demonstrated in this document that they understand the local broadcast media sufficiently, if at all, in order to come up with a draft of broader scope (one which says something).		from the OFCOM code does not indicate a lack of attention, but merely sensible practices regarding adoption of proven regulatory provisions.  The Authority is confident that the persons involved in the process were cognisant of the local circumstances and adequately considered these during the drafting process.
	Radio Tambrin Mr. James	What is the role of the broadcasting professional in helping to develop the rules and regulation in the future		The Authority will continue to work with the professional associations in development of the broadcasting sector.
	Lennox Grant	Does the industry have the resources to ensure quality broadcasting in T&T? What we see and hear on the airwaves is the result of the above. What is the Policy?		The role of the Authority is to establish the regulatory framework. It is hoped that by implementation of a set of standards which broadcast content must meet, the necessary training and other resources would be implemented by broadcasters to ensure that their programming complies with the Code, thereby raising the standards generally.
	Anthony Hector	Under the second objective, who sets the standards? Standards evolve.		The Authority notes that standards do change and hence the structure and language of Code, will, it is

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				hoped, allow the necessary flexibility to evolve with the standards.
	Anil Goorahoo FM 103 Newsday	A Code is a good idea. Agree with objectives and principles. Understands why TATT wants to establish because the media has not put in place an alternative.  Should TATT be responsible for regulating content?		The Authority's mandate to regulate broadcasting services is derived from the Telecommunications Act.
	Anthony Hector	This Code is meant to control certain problems which occur in the Trinidad society but not in Tobago. Tobago should have a separate section since what is happening in Trinidad is not happening in Tobago.		The Authority does not agree. The Code is National in scope and its provisions are based on international best practice. It is not intended to create one Code for Trinidad and another for Tobago but one to move the entire country forward.
	Mr. Thomas	What defines a community or national radio station?		The term "community radio" no longer exists. There are four types of radio broadcasting concessions, namely: national, major territorial, minor territorial and niche. "Niche" is only rarely utilised due to the nature of radiomagnetic spectrum transmissions and the tendency to spill outside of any defined service area.
	Mr. Thomas	Who are we complaining to in the absence of a Broadcasting Code? Who do persons complain to about the media?		In the absence of the Code, members of the public may

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				complain to the Authority.  Section D9 of the broadcaster's concession creates certain obligations with which broadcasters must comply. There are also industry established organisations such as the Media Complaints Council which consider complaints from the public.
	Brent Williams	What measures are being put in place to train broadcasters on what should be aired and what should not? How will broadcasters be trained on the Code?		The responsibility for training their employees lies with the broadcaster. It is hoped that the standards in the Code will encourage greater emphasis on such training.
	Tony Fraser	What have the broadcasters and Media Association been doing for the past twenty years since the NAR Government put out a Code for discussion		This matter would be better addressed by the Media Association and the broadcasters.
	Tony Fraser	Are there standards for media practitioners since many young journalists have no training?		The Code sets standards for broadcast content. The Authority does not mandate the training or other experience required for media workers, believing that this is a decision for the broadcaster. The Broadcaster will now be required to ensure that appropriate training is given to meet the standards set out in the Code.
	Radio Tambrin	How do you create balance in Tobago when the Opposition		The Code allows for a diversity of

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	Mr. Parkerson	does not have access?		views to be aired via the media. The initial draft seeks to mandate balanced treatment in news programmes aired during election periods. While this will not require access by any particular party, it will require that reporting is appropriately balanced.
	One Caribbean Media Limited	A Broadcast Code, as a regulation under the Telecommunications Act, must acknowledge that there are other laws in the statute book, including the Constitution of the Republic of Trinidad and Tobago itself		The Broadcasting Code as a matter of law is subject to all laws and in particular the Constitution of the Republic of Trinidad and Tobago. This does not need to be stated in order for it to be so.
	Radio Tambrin	What is the difference between political advertising and government information?  The font the Code is printed in is too small. It should be increased		Section 11 of the Code provides general rules governing advertising.  Noted.
	Radio Tambrin	The code makes reference to a reasonable person when evaluating a breach; who are the reasonable persons within the Authority to make this determination? What are their qualifications?		The definition of “reasonable person” is in Section 3A of the Code.  In interpreting the Code, the persons evaluating a breach do not apply their own standards, but the standard of a “reasonable person” possessing the attributes described

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				in the definition section of the Code.
	One Caribbean Media Limited	Editorial judgment is not scientific. It is a combination of experience, sensitivity to the mood of the general public, newsworthiness of the subject-matter, and the personality and background of the person exercising that judgment. What one News Director may do, another may choose not to, both exercising editorial judgment. That indeed is why news reports, editorials and programming choices differ among broadcasters.		<p>The matters contained in the Code regarding news relate to accuracy, a matter which can generally be determined with adequate certainty. While editorial judgment is subjective, in the area of news it should not be permitted to interfere with accuracy. The Authority is not concerned with differences between news reports, it is concerned with inaccuracy.</p> <p>As regards other types of programming, the editorial choices must have regard to the rules contained in the Code, and the person making the decision should be able to demonstrate the rational application of the rules, notwithstanding the application of their own judgment.</p>
	TTPBA	It would be unfair to seek to control the voice of broadcasters with the full knowledge that the others arms of the press and media would not be subject to such regulations or control. And quite frankly, any attempt to control the printed press would be met with such great opposition that no steps would be made in such a dangerous direction.	The challenge is to ensure (1) that the Code sets standards for the industry without interfering with the guaranteed freedom of expression of thought and opinion within the operation. (2)that the Authority ought to	<p>It is internationally accepted that broadcasting media is regulated differently from print media because it differs in nature and degree of pervasiveness.</p> <p>The licensing requirement placed on electronic media is indicative of the difference in treatment.</p>

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			implement a Code which sets out minimum criteria or standards that have to be met by each concessionaire and (3)that focus be placed by the Authority on ensuring that each concessionaire, by virtue of its internal regulatory system, satisfies the Authority that it can, at the very least, achieve the minimum standards as set.	The Authority's mandate is clearly outlined in the Telecommunications Act 2001.
	TTPBA	Commendation is given to the Authority for the public consultations on the proposed Code and it is expected that the contributions made by citizens and the suggestions contained in this document will be given meaningful consideration.	TTPBA recommends the approach adopted by the Accreditation Council of Trinidad and Tobago, in the regularization of the post secondary and tertiary level education and to date the ACTT has been undeniably successful in ensuring that each institution that offers programmes in this stated category of education has met or surpassed minimum standards to ensure excellence in the delivery of its	The Authority assures that all views presented in consultation so far have been fully considered in this revision of the Code, and that all future comments will be similarly addressed. The Authority does not believe that an accreditation approach is realistic in regulation of broadcasting content. Such a system is not appropriate where the harmful effects of non-compliance have the potential reach of a broadcast transmission. The Authority therefore believes that there must be a clear set of rules to ensure that it is able to address any situation in

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			programmes. .	<p>which a Broadcaster has transmitted inappropriate material, regardless of the presence or not, of appropriate systems and suitably trained and qualified persons within the Broadcaster's organisation.</p> <p>The Authority agrees, however, that focus on qualification and standards, implemented by the broadcasters with the input or assistance of the Authority, is important and would welcome the TTPBA's input in the creation and management of such a system.</p>
	TTPBA	The TTPBA suggests that the Rules not the Guidelines, as stated in this submission be treated as analogous to minimum standards that must be met by each concessionaire and that the Authority establish a mechanism and system to ensure that each concessionaire complies with the general Rules in order to achieve the stated objectives. The draft guidelines which form part of the Code can be adjusted and/or amended and/or reviewed in order to assist concessionaires in understanding the rationale for the revised Rules and the methodology or mechanisms that the concessionaire must implement or establish in its internal daily operations in order to comply with the revised Rules of the Code.	It is suggested that the Code be redrafted to set the standards for acceptable conduct within the context of broadcasters and that the Rules of the Code with the amendments as submitted be used as the standards that must be met by each concessionaire.	The approach suggested is consistent with the format that will be adopted with the Code.
	Anil Goorahoo	TATT should help the media develop their own standards		The Code sets minimum standards with which the media must comply.

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				The Broadcasters should be responsible for ensuring that their internal processes and standards result in compliance with the content standards set out in the Code.
	Anil Goorahoo	The Code does not include technical requirements.		The Code does not deal with the technical requirements for broadcasting e.g. transmission of power, etc. Technical requirements are specified in the licence and/ or concession granted to each broadcaster.
	TTPBA	<p>There are specific provisions of the Code, which are in clear violation of the rights enshrined in the Constitution.</p> <p>Anything therefore, in the proposed broadcasting code that is in violation of the Constitution would be automatically declared null and void and such provisions would also be in direct violation of the guarantee given in the Act.</p>	Each rule with its specific provisions must be tested against s 4 and s 5 of the Constitution to ensure that there is no violation. Suffice to say that the Authority should review each provision, clause by clause, to remove or revise the clauses that are in clear breach.	The Authority is of the view that the Draft Code pursues a legitimate aim and the measures are proportional to achievement of that aim and therefore cannot be viewed as unconstitutional. The Authority notes that no particular provisions have been cited by the TTPBA, however, it will be noted that certain provisions have been modified to further ensure that the Code is consistent with the objects in Section 3(g) of the Act.

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	One Caribbean Media Limited	There is no objection with the principle of regularization however, the process must be one that is internally driven by the concessionaire and appropriately monitored and approved by the Authority.		The Authority notes that the Code does not prevent Broadcasters from having their own, internal processes which ensure that the standard of broadcasting is raised. The Code merely sets out minimums, which ensure protection of the public from excesses in the absence of, or caused by the failure of, self regulation.
	TTPBA	It would be very instructive if the Authority indicated the process that would be used to ensure compliance with the proposed Code by the concessionaire over and above the reactive regulation approach as contemplated in the proposed Code. The 'complaint and cure' procedure will not be an efficient mechanism for ensuring compliance and lends itself to abuse and allegations of inconsistency on the part of the Authority.	Of even greater benefit, would be workshops organized by the Authority with the specific purpose of addressing matters raised in the proposed Code and providing meaningful working and practical guidelines to the concessionaries, by way of examples, as what might or will be considered a	The Authority has included guidelines to assist in the interpretation of the various rules in the Code. This is not intended to be a static document but will be enhanced as further experience is gained in the implementation of the Code.  The Authority appreciates the suggestion and will work with the broadcasting sector to promote a

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			breach of the Code. That this has not yet been done is of great concern because even with the guidelines provided in the Code, some concepts remain nebulous at the very least.	better understanding of the Code.  Also, the document has been revised to provide more clarity regarding compliance processes.
	Lennox Grant	The Act requires a Code. The National Policy on Broadcasting states that the Government should develop a Code.  New improved document. Seems to signal the end of any initiative on self-regulation. The Media Association is dead.		The Authority is, of course, aware of the relevant provisions of the Act and has expanded on this in the introduction to the revised draft. It should be noted that the presence or absence of the provisions in the Act does not change the underlying need for a system to regulate broadcasting content.
	Lennox Grant	Was a broadcaster ever denied a licence by TATT?		It should be noted that the Authority has made recommendations for only three new radio broadcasters and four new television broadcasters. The vast majority of current broadcasters were authorised prior to the Authority's commencement of regulation pursuant to the Act.
	Ricardo Charles	How does the situation with LAQTEL affect liberalization process?		LAQTEL is no longer authorized to provide a mobile telecommunications service in Trinidad and Tobago. The Authority has recently invited proposals for a

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				new mobile provider.
	CC	Is there a time limit for the public consultation?		Yes. A decision was made to extend the deadline for completion of consultation to end October 2008. A further round of consultation begins with the publication of this document and will be open (for written comments only) until Friday 23rd January 2009.
	Dr. Cleve Sandy	Is there absolute morality in broadcasting or does it change as the society changes?		There are certain basic principles which must be included in any broadcasting code. Certain practices will change and the regulatory framework must adapt to those changes.
	Deosaran Bisnath, President of Caribbean Hindu Council/ GOPIO	Bad time for public consultations; deadline should be extended		A decision was made to extend the deadline for completion of the consultation the end of October 2008. A further round of consultation begins with the publication of this document and will be open (for written comments only) until Friday 23rd January 2009.
	Deosaran Bisnath	Is TATT responsible or do they ensure that there is a proportionate amount of content to reflect the diverse religions and cultures of T & T? Will TATT be compassionate to other religious groups about getting		The Code does not address the issue of grant of concessions and licences. The Authorisation Framework has been developed by the Authority

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		<p>licences to operate stations?</p> <p>What about online radio and the Internet with respect to porn, etc. We should look at this</p>		<p>which identifies the criteria for the granting of concessions. The criteria adopted by the Authority do not differentiate based on the genre of content.</p> <p>Content distributed via the Internet is not regulated by the Code. The Authority will monitor developments in Internet regulation, though it should be noted that the extent to which websites satisfy the definition set out in the Act for “broadcasting” is unclear.</p>
	Deosaran Bisnath	There is a lack of quantification in the Code. It is very subjective. e.g. Clause 3.1 – likely to encourage; Clause 6 – to ensure that citizens receive a sufficient; well-informed decisions. Who decides the meaning of these words?	More fine-tuning needed in the document.	Where appropriate the language used has been made more specific in the re-draft.
	Dominic Beaubrun TTPBA	<p>Rules are too prescriptive.</p> <p>Some objectives are unconstitutional</p>	Collaborative dialogue that will lead to a sharing of responsibility by broadcasters and Regulator	<p>The Authority is unsure as to the issue of sharing of responsibility. However, the rules, such as they are must be suitably certain to ensure the ability to enforce them.</p> <p>The Authority is of the view that the Draft Code pursues a legitimate aim and the measures are proportional to achievement of that aim and therefore cannot be viewed as unconstitutional. The Authority</p>

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				notes that no particular provisions have been cited by the TTPBA, however, it will be noted that certain provisions have been modified to further ensure that the Code is consistent with the objects in Section 3(g) of the Act.
	Erthus Daniel	Code should be designed to suit our local environment		The Authority believes that the provisions are suitable for the local environment.
	Jeffrey Joseph	Each newspaper has its own version of a report on events. Lack of proof readers in media.  Imprisonment is not an appropriate sanction for breach of the Code.		The Authority is not empowered or mandated to regulate the print media.  The penalties are as set out in Section 65 of the Act. The penalties apply to all material breaches of concessions granted pursuant to the Act, including breaches of the Code. It should be noted that the penalties are administered by the Courts, and it will be up to the Magistrate or Judge to determine an appropriate penalty based on the breach. The Authority would not seek the harshest penalties, and it is suggested that the Court would not impose them, unless the circumstances warrant.

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	Jim Greaves Religious broadcaster	Need to address demand side for successful implementation of Code.  Time frame for final document?	Need for education of the public about media and the choices they make	Noted. The Authority will be reviewing this issue.  The document will have to be laid in both Houses of Parliament for affirmative resolution.
	Brother Wes	What is the process for dealing with a breach?		This process is outlined in Section D of the Code (Compliance and Procedure).
	Roberts	Can a person licensed by TATT broadcast outside of T&T?		The Authority only regulates broadcasters and their broadcasts within the borders of Trinidad and Tobago.
	Ricardo Charles	It seems that the public consultation was not sufficiently advertised.		All reasonable steps were taken to ensure that the public was made aware of the consultation.
	Winston Ragbir	Two-thirds majority in Parliament is required for Code.		The Code will be laid in Parliament in accordance with the Act and Parliamentary procedure. The Authority and its Attorneys are of the view that the Code does not contain any provisions which might be inconsistent with the Constitution and thus require special majority.
	Winston Ragbir	Provisions are flawed since inconsistent with rights of individuals.	Issues should be addressed under recommendations and ethical standards. An ICT Act should establish a Tribunal and an "ICT	The Authority is of the view that the Draft Code pursues a legitimate aim and the measures are proportional to achievement of that aim and therefore cannot be viewed as

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			standards code”.	unconstitutional. The Authority notes that no particular provisions have been cited, however, it will be noted that certain provisions have been modified to further ensure that the Code is consistent with the objects in Section 3(g) of the Act.
	Thusian Institute	The Code is unconstitutional.  Government has no power or authority over private domain freedoms.	Leave religion alone.	The Authority is of the view that the Draft Code pursues a legitimate aim and the measures are proportional to achievement of that aim and therefore cannot be viewed as unconstitutional. The Authority notes that no particular provisions have been cited, however, it will be noted that certain provisions have been modified to further ensure that the Code is consistent with the objects in Section 3(g) of the Act.
	Ms. Dowell	Is there a reason why Tobago only has one radio station and one TV station? Can the application process be opened		The Authority has issued an RFP for one additional radio station in Tobago.  With respect to TV, the Authority issued an invitation to qualify for 2 Tobago stations in late 2007 but no one applied.
	Tony Fraser	There are usually levels of regulation:		The Code is national in scope. This

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		<ul style="list-style-type: none"> <li>- National</li> <li>- Industry (Media Association)</li> <li>- Journalist</li> <li>- Media houses</li> </ul> <p>BBC has their own Code and a Style Code  Associated Press has its Code of ethics</p>		does not discount the role of industry self-regulation which can be implemented within the boundaries of permitted content under the Code.
	Tony Fraser	<p>Supports introduction of Code and infrastructure for implementing and supporting Code based on</p> <ul style="list-style-type: none"> <li>- pervasiveness of broadcasting Media</li> <li>- broadcasters have great influence on values, views</li> <li>- Spectrum is limited</li> <li>- Influences what people think and/or what people think about</li> <li>- Most of the western world have broadcast regulators and standards in place</li> </ul>		Noted.
	Marina Maxwell	Needs weeks of public face to face debate on TV and radio.		<p>The Authority has engaged in a public seminar on Broadcasting regulation, interviews, stakeholder and public consultations on the Code since the beginning of the year.</p> <p>A further round of consultation begins with the publication of this document and will be open (for written comments only) until Friday 23rd January 2009.</p>
	Marina Maxwell	No mention of Internet intrusion, porn on weekly newspapers and vulgarity on radio and TV.		The Authority is not empowered or mandated to regulate the print media.

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				The Authority considers that it would be impractical to seek to regulate the Internet.
	Tonia Gooding	Does the Code apply to cable TV?		Yes, subject to the caveats within the Code regarding certain premium packages.
	Tonia Gooding	Not enough emphasis is placed on helping to positively influence the younger generation during their critical years of formation. "Family shows" do not express the type of values and morals that we want our children to emulate and this is a source of concern.	There should be more children shows with more positive teaching messages.	There are provisions in Clause 1 of the Code with respect to the content of children's programmes. The Code does not seek to improve the subjective quality of broadcasting, only to prevent certain conduct which might result in harm or breach legitimate public legal aims.
	One Caribbean Media Limited	Whether or not the views and opinions of members of the public are deemed to be offensive or harmful by the Authority (acting on a complaint by an affected person) will depend on the context within which they are proffered.	The Draft Code should make clear and explicit that the Code is not intended to substitute for the editorial judgment of broadcasters. The Authority should require	The Authority will make such decisions within the boundaries of the definitions contained in the Code. While an element of subjectivity cannot be avoided, there is adequate objective certainty to enable fair and consistent determination by the Authority.
	One Caribbean Media Limited	The role of 'context' is illustrated in the language of the UK Code, language which has not found its way into the Draft Code.	The Code must give due space to the exercise of editorial judgment by the broadcaster within the broad framework of the Code and the laws of the land. We would	The Code recognizes the role of 'editorial judgement' which is to be exercised having regard to the standards outlined in the Code. Section 3A defines 'context'. The Authority considers that 'context' is appropriately treated in this draft.

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			<p>recommend that the Draft Code make clear and explicit that the Code is not intended to substitute for the editorial judgment of broadcasters and their individual appreciation of their audiences and the context of their broadcasts.</p> <p>We also recommend in the spirit of co-regulation, that the Authority require each broadcaster to develop and implement its own editorial policy document, consistent with the Code, which can be registered with the Authority.</p>	<p>The Authority considers it unnecessary, in a code which already gives significant room for editorial judgment, to make such statements.</p> <p>Noted. This suggestion will be considered by the Authority.</p>
<b>SECTION A - PURPOSE</b>				
Purpose	Winston Ragbir	The Act does not give the power to TATT to act as a Tribunal and to impose penalties. This must be done by a court of law.	Code not to be implemented in present form.	The Authority does not accept this suggestion. The Code is not inconsistent with the Act. Pursuant to the Act, the Summary Offences for breach of the Code will be imposed by a court of law while the Minister will administer the powers of termination and suspension of

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		TATT is only an agent of the Minister and must report to him.		<p>concessions and licences upon the recommendation of the Authority, consistent with section 30 and 39 of the Act.</p> <p>This is incorrect. The Authority is not an agent of the Minister though it has specific responsibilities to, or relationships with the Minister, as set out in the Act. The Authority is an independent statutory body established by Act No. 21 of 2001.</p>
Section A Purpose	Columbus Communications Trinidad Ltd.	TATT seems to be taking on the role of referee in “balancing of rights and interests of different parties”, which is not the intention of the Act.	Revise to reflect the intention of the Act viz. to set and monitor acceptable broadcasting standards or practices	The Authority does not agree. The Authority is responsible for “regulating broadcasting services consistent with section 4 and 5 of the constitution”. This reference requires, <i>inter alia</i> , the balancing of the rights of broadcasters and others to freedom of expression and the press, with the other rights of individuals under the Constitution where they conflict.
A. Purpose (Page 4)  “... designed to enable the Telecommunications Authority... to balance	TTPBA	<p>This conflict also exists for the press but there is no press code.</p> <p>Radio, television and print are merely delivery vehicles and not the product.</p>		The Authority has a mandate to regulate broadcasting services in Trinidad and Tobago, which requires the promulgation of a Broadcasting Code. The Authority is not responsible for regulating

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the conflicting rights and interests of stakeholders while promoting acceptable standards..."		<p>“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.”</p> <p>So what? What does this mean?</p>		<p>print media.</p> <p>Matters which may reasonably be judged to have an impact on the population as a whole or groups of citizens such as prevention of crime and national security are deemed to be in the public interest. The Authority may take regulatory action to protect legitimate public interests, so long as the action is proportionate.</p>
<b>SECTION B - OBJECTIVES</b>				
Introduction Section B. – Principles	One Caribbean Media Limited	This section only articulates one principle	In fact the Draft Code seeks to embrace several other principles which should be clearly articulated and included in this section as well.	Noted. Section B – Principles has been deleted as the objectives in Section C are adequate.
Section B Principles	Columbus Communications Trinidad Ltd.	Principles are general rules that guide conduct.	Structure Code to combine principles, context and Guidelines to make clear what the Rule is designed to achieve.	Section B – Principles has been deleted as the objectives in Section C are adequate.
Section B Principles	Winston Ragbir	A Broadcast Code is intended to set acceptable standards and is largely self-regulating. Standards are more appropriate in the current environment.		There are different models for regulation of broadcasting; self-regulation, regulation by a Regulator or co-regulation depending on the circumstances. The approach selected by the

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				Authority as most appropriate for the local market is as outlined in the document.  Section B – Principles has been deleted as the objectives in Section C are adequate.
B. Principles (Page 4)  “...and the need to protect persons from harm or unnecessary offence.”	TTPBA	Being offensive is not a crime. (See position paper on Offence and Hate)		The Code does not only regulate conduct that constitutes a crime. It regulates conduct that either infringes another's rights or is likely to cause harm, or offends against a legitimate public interest. In any event, the objective has been amended to make it clearer that the Code does not seek to prohibit broadcasts which give mere offence, however, undue offence is addressed by the Code.  Section B – Principles has been deleted as the objectives in Section C are adequate.
<b>SECTION C - OBJECTIVES</b>				
Introduction Section C. - Objectives	One Caribbean Media Limited	The fifth objective relates to a different principle from that outlined in Section B which needs to be articulated.		The Principles have been deleted.
Introduction Section C. - Objectives	One Caribbean Media Limited		The sixth objective should be deleted. This is prescriptive and does not relate to any principle on which a Broadcast Code	Noted. The document has been revised. “To ensure that individuals and organizations participating in or directly affected by programmes

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			should be founded.	are treated fairly'
Section C Objectives	Winston Ragbir	Objectives outlined are not appropriate. Should deal with illegal broadcasts, national security issues and violations of international agreements which carry clearly defined penalties.  Should provide for protection of children, women, handicapped and cultural and religious groups.	Replace Code with an ICT standard comprising objectives	The Code regulates broadcasting content. The Act and various other documents produced by the Authority regulate the technical and other issue mentioned.  Noted. The Code has been amended to provider greater protection for certain specific groups.
Section C Objectives	Winston Ragbir	Covers most but not all objectives.	Include National Pride or Patriotism Objective under which broadcasters will be required to cover happenings in the local industry	The Authority can only regulate broadcasting content consistently with Sections 4 and 5 of the Constitution. The proposal would arguably constitute an unreasonable limitation on freedom of expression.
Section C Objectives		In the third objective the word "disorder" is ambiguous.		The Authority has revised the language accordingly.
C. Objectives (Page 4)  "To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful or offensive material;"	TTPBA	Being offensive is not a crime. (See position paper on Offence and Hate) The Code leaves much to interpretation.		The Code does not only regulate conduct that constitutes a crime. It regulates conduct that either infringes another's rights or is likely to cause harm, or offends against a legitimate public interest. In any event, the objective has been amended to make it clearer that the Code does not seek to prohibit broadcasts which give mere offence,

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				however, undue offence is addressed by the Code.
Objectives (Page 5) “to help citizens receive a sufficient range of information, views and opinions, as well as facts, so that they can make well-informed political decisions;” ”.	TTPBA		This should state, “if a broadcaster airs political programmes	The Objective does not indicate the specific obligation of broadcasters but sets out what the Rules are intended to achieve.
“To ensure that broadcasters avoid unjust or unfair treatment of individuals or organisations”	TTPBA	Question: If a broadcaster criticises the COP or asks “How did we allow a man like Panday to become Prime Minister?” would that be considered unjust or unfair? What is unfair? Who deems it so?  Note: the press can do the above.		The Authority will not in this document attempt to determine whether a particular statement would be unjust or unfair under the Draft Code. In making such a decision, it would have to consider all the circumstances at relevant to the particular material broadcast.  Note that Clause 7 i to vii outlines practices to be followed by broadcasters in order to avoid unfair treatment of individuals and organizations.
“To ensure that news content and advertising are kept distinct.. and	TTPBA	Is giving offence a crime?		The Code does not only regulate conduct that constitutes a crime. It regulates conduct that either

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to ensure that advertising does not cause unnecessary harm or offence;"				infringes another's rights or is likely to cause harm, or offends against a legitimate public interest. In any event, the objective has been amended to make it clearer that the Code does not seek to prohibit broadcasts which give mere offence, however, undue offence is addressed by the Code.
"To ensure that programmes do not involve any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination and that there is no improper exploitation of any susceptibilities of the audience for such a programme."	TTPBA	"Abusive" – am I allowed to say that scientists believe that Creation as recorded in Genesis is total rot? (The person should be protected; not the belief.)		The Authority will not in this document attempt to determine whether a particular statement would be unjust or unfair under the Draft Code. In making such a decision, it would have to consider all the circumstances at relevant to the particular material broadcast.  Protection of a person's religious freedom requires protection of the religious belief from unnecessary abuse.
<b>SECTION D - SCOPE</b>				
D. Scope	Winston Ragbir	Scope is irrelevant.	Scope should relate to types of broadcast and the target markets.	Changes have been made to the Scope as regards Subscription Television. The Authority considers the Scope as now drafted to be appropriate.
D. Scope	Marina Maxwell	Far more analysis is needed.	See writer's book and other studies	Changes have been made to the Scope as regards Subscription

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				Television. The Authority considers the Scope as now drafted to be appropriate.
	Marina Maxwell	Parental control mechanisms and safeguards do not work		The Authority does not agree although it is noted that such safeguards are likely to be inadequate without some level of regulation and parental cooperation.
Section D Scope	Ital Lion Promotion & M'gement	Narrow scope. Should cover locally produced content.	Include minimum requirement of 60% local content for basic package broadcast	Local content falls outside the ambit of the Draft Code, it is a matter of National Broadcasting Policy. The Authority has, however decided to consider the issue of local content via a separate process, with a view to producing an appropriate advice for the Minister on the appropriateness of the existing Policy.
Section 3 B 1.2 Scope and Applicability	Ital Lion Promotion & M'gement	Where a licensee only re-broadcasts programmes of another licensed broadcasting undertaking the re-broadcaster should not be subject to Code.  May lead to irreconcilable differences re: material that is non-compliant.	Amend to provide "that the programme originator will be the entity responsible for vetting the programmes, not the distributor".	All material broadcast is regulated by the Code. When making the decision to re-broadcast the concessionaire must ensure that the material is appropriate and the scheduling is consistent with the rules of the Code.
Section 3 B. Scope	Dianne Antoine	How is internet regulated by the Code?		Internet broadcast is not regulated by the Code.
	Columbus		Amend "Service provider	The Authority does not agree with

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Section 3 B. Scope and Applicability Clause 1.5	Communications	Clause 1.5 badly drafted	should ensure that proper internal policies and procedures are in place to prevent underage persons from purchasing subscriptions or optional packages and from access to premium content”.	the proposed change.
Section D Scope	Ital Lion Promotion and M’gement	Authority of TATT in enforcing Code may be compromised by the fact that recommendations have to be made to the Minister. (Section 30)		Noted. However, the penalties and processes set out in the Code are prescribed by the Act and the Authority’s powers extend only so far as provided for by the provisions of the Act.
D. SCOPE (Page 6)  “The code speaks to... fairness in dealing with controversies, personal attacks, politics and religion.”	TTPBA	Every effort must be made to put to rest the lingering notion that comment or opinion has to be fair or reasonable. We must give protection to ALL opinions no matter how outrageous, as long as they are based on fact.  Fairness would be required if we still had only 2 radio stations; not when we have 35.	We suggest that the Canada’s test of fairness be included in the codes. The test is as follows:  -4- If anyone in society can come to the same conclusion with the same facts, fair comment must be granted.  -5- The statement has to be based	The Authority considers the basic concept of fairness to be unobjectionable and consistent with the Constitution. The comment appears to be proposing a test for fairness which the Authority will consider in its implementation of the particular provision.  The Authority does not agree, having had regard to listening patters of viewers, that the number of radio stations is relevant at all to the need for a broadcaster to be fair.

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			<p>on fact</p> <p>-6- The statement must be a comment and/or opinion</p> <p>-7- Is it in the public interest?</p> <p>-8-</p>	
E. Consultation Process	Winston Ragbir		A draft Broadcast Code document should be designed so as to present different options that are available for consideration in a working document form.	The Authority considers the proposal unwieldy, particularly in these circumstances.
<b>INTERPRETATION OF TERMS</b>				
Definition	Carol Singh-Samlal	Definition of "broadcasting service covers inter alia, cable TV, Internet and cellular phones.		The Authority has elected to limit its purview with respect to content, to exclude Internet broadcasting. Broadcasting via cell phones, however, these would likely be forms of subscription TV and regulation thereof would be addressed accordingly under the Code.
Section 3 A Interpretation of watershed	Columbus Communications Trinidad Ltd.	Clumsy drafting	Delete first sentence. Insert "The watershed commences at 9.00 pm and ends at 5.30 am on the following morning".	The Authority has revised the wording accordingly.

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Section 3A Interpretation	Khadine Daisley	Does the watershed apply to radio as well?		The Authority has revised the draft Code to apply the watershed to both radio and TV.
Section 3 Interpretation of terms	Anil Goorahoo	Interpretations are very broad. E.g. "Abusive treatment". What kind of injury? What kind of offence? How do you define reasonable justification? What is reasonable for one person may not be reasonable for another?		The Authority will be required to assess whether certain statements constitute abusive treatment, having regard to the circumstances at the time of the broadcast. The Authority is, however, closely reviewing these definitions.
Section 3 A	Marina Brown PTA	Clarify "public interest".		This term is defined in Section 3A of the Code.
Section 3 Interpretation of terms	Anil Goorahoo	"Expert opinion" does not include media practitioners without qualifications but with many years of experience.		The definition would cover persons with expertise in the area under discussion, but no formal qualification.
Interpretation of Terms; Clause 4 Race	One Caribbean Media Limited	The definitions of 'Racial Group' and 'Racist' which it proffers are challengeable. Assuming a racial group can be identified, if he views only some members of the group as having these traits, is he a racist, or merely a 'pseudo-racist'? What do we mean by 'character' traits, which are presumably distinguished from personality or psychological traits	We would recommend that the section on Race and the definitions of 'race' and 'racial group' be deleted and that the Authority adopt the broad framework approach to dealing with the question of race and ethnicity along the lines of the UK Code	The Authority does not agree with the proposed change. However, the definition has been revised for greater clarity.

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			in the same terms.	
Section 3 B Scope and Applicability	Columbus Communications	<p>Clarify “general audiences”.</p> <p>Requirement that broadcasters indicate to subscribers whether content is compliant with Code, is inconsistent with statement that optional packages are not regulated by Code.</p>	<p>Amend to exclude channels in the basic package that do not originate locally and are subject to the broadcasting Code of the originating jurisdiction.</p> <p>Delete the last part of the sentence.</p>	<p>The language has been revised for greater clarity.</p> <p>The Authority does not agree. If the material is in the basic package the broadcaster must ensure that it is compliant with the Broadcasting Code of Trinidad and Tobago. The Authority cannot rely solely on regulation in a foreign jurisdiction particularly since differences as innocuous as time differences might render such regulation meaningless when it is rebroadcast in Trinidad and Tobago.</p>
<b>RULE 1 – PROTECTING CHILDREN AND YOUNG PERSONS</b>				
<p>Rule 1 Protecting children and young persons</p> <p>Objective: To ensure that children and young persons are neither harmed nor misled by the transmission of</p>	TTPBA	<p>Rationale:</p> <p>There is nothing objectionable in seeking to protect a specific group of the population, in this case persons under the age of fourteen (14) years, especially in light of current circumstances, which indicate that this group is particularly vulnerable to the criminal element. In any event, every reasonable society would readily accept that all must be done to protect the impressionable minds of young person from material, which would adversely affect their holistic</p>	Agrees with Objective as stated	Noted.

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inappropriate and/or inaccurate material.		development. There are laws that deal specifically with the protection of young persons and we are informed that these laws will soon be amended to provide stiffer penalties for existing offences and to create new offences as it relates to children. Concessionaires, like natural persons, are subject to the laws of the land and therefore would not be exempt from liability or culpability should they violate the law.		
Rule 1. Protection of children	Khadine Daisley	Who are children?		“Children” is defined in Section 3.A as persons under the age of 14 years.
Rule 1. Protection of children	Lennox Grant	Why is protection of children such a high priority for TATT?		The protection of children and young persons is a core obligation of any progressive society and a perfectly legitimate objective and it would be irresponsible for the Authority to not place reasonable limits on broadcasters in that regard.
	Ms. Dowell	How do you determine the watershed period being 9 to 5? Will this protect children from what is on TV?  The Authority should be monitoring everything		Nine o'clock was chosen as a reasonable time based on balancing the rights of adults to see material that they choose with limiting of access by children to inappropriate material. Parents are responsible for monitoring their children's viewing during the watershed period.
Guideline to Rule 1.2	Khadine Daisley	Does MATT have any standards relating to news that are similar to those in the Code?		The Authority understands that MATT has certain codes which it seeks to apply. However, the Authority is not responsible for

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				MATT's Code and has a broader mandate and objective than MATT.
Rule 1 Objective Guideline to Rule 1.1 (Guideline to Practice 7.1) (ii) Fairness	TSTT	“Young person” is not defined.  Reference is made to young person as under eighteen	To define	The term has been defined in the redraft.
Guideline to Rule 1.1	TSTT	It is unclear exactly in what circumstances can broadcast material harm a child physically. It may do so “indirectly” Will be difficult to enforce. Also need to supplement Code by public education and appropriate Rules for sale of unsuitable CDs, games to children.	Clarify or delete physical harm”.	Physical harm may be indirect, for example through imitation by a child.  TATT is not responsible for the sale of CDs or games.
Interpretation of Terms; Guideline to Rule 1.2	One Caribbean Media Limited	The definition of watershed is incorrect. It states that material unsuitable for children must not be shown during this period.		The Authority has revised the document to clarify.
Rule 1.1 Watershed	Erthus Daniel	Need for more local content and specific guidelines as to the type of programmes that should be shown during the day and the quantity of any particular genre of programme.		Local content falls outside the ambit of the Draft Code, it is a matter of National Broadcasting Policy. The Authority has, however decided to consider the issue of local content via a separate process, with a view to producing an appropriate advice for the Minister on the appropriateness of the existing Policy.  It is noted, however, that the proposed limitations would likely constitute an unreasonable limitation on freedom of expression

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				and/or freedom of the press.
Rule 1.8 Protection of children	Mrs. Quamina	Some cartoons contain inappropriate material		The Code applies to animated and non-animated programmes.
Rule 1.9	Kamal Wakidee	This is vague. Who determines what is gratuitous?		What is gratuitous will be determined by the Authority based on how the particular theme is treated.
Rule 1.1 Section A Interpretation Watershed	Derek Pena	Pornographic material aired after 9.00 pm has many proven negative effects.	A complete ban on "pornographic material". At a minimum, the watershed time frame should be reduced to the hours between 12:00 midnight and 5:00am.	The Code has been amended to include a restriction on pornography on free to air television. "Pornography" is the explicit description or exhibition of sexual activity in films, intended to simulate erotic rather than aesthetic or emotional feelings".  The watershed has been revised to 10:00p.m. to 5:00am.
Rule 1.7 – 1.10 Protection of children	Rawle Harvey	How does the Code deal with boxing, wrestling and mixed martial arts which are part of the Olympics, Commonwealth Games		This Rule does not prohibit broadcast of legitimate sports programmes
Clause 1 Protection of children and young persons Watershed	Fr. Mark Georges	The watershed time frame for viewing unsuitable materials for children should be reduced to midnight to 5am. Children, especially during vacation and when unsupervised are often up long after nine and risking their exposure to such material is unjust and irresponsible.	Watershed should be from midnight to 5.00 am.	The Authority considers a watershed that starts at midnight to be unreasonably restrictive.  However, the watershed has been revised to 10:00p.m. to 5:00am.
Rule 1.1 Protection of children Watershed	Brian Lewis	In the interest of our children and the future morals of our society the watershed should be shortened.	Consider shortening the 'watershed timeframe' to midnight to 5:00 AM.	The watershed has been revised to 10:00p.m. to 5:00am.

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Rule 1 Protection of children	HEPHZIBAH	Code should protect young adults up to age 18 years from adult programmes.		The Authority considers it appropriate that regulation lessens as persons grow from childhood into young adulthood. The rationale for limiting freedom of expression to prevent harm is less persuasive as persons grow into young adulthood.
Rule 1 Protection of children	Tonia Gooding	The timing of ads advertising condoms (7.30 am) when children are being driven to school, is unacceptable		The question as to whether such advertising is inappropriate for children would have to be considered having regard to all the circumstances of the broadcast.
Rule 1.1 Protection of children Watershed	Denise Koylass Brett Lewis L Kowlessar	Limit period from midnight to 5 am for pornographic material if we must have such on our televisions.	Review watershed period.	The watershed has been revised to 10:00p.m. to 5:00am.  Note also that pornographic material is not permitted under the revised Code.
Rule 1.1 Protection of children	Mrs. Quamina PTA St. Patrick District	Provide clarification on the term "watershed". Does this apply to radio as well?		The Code has been amended to apply the watershed to radio as well as TV.
Rule 1.2 Watershed	HEPHZIBAH Ministries	Period of watershed inappropriate. Children stay up late to study or do so in front of the TV and get up early for school.	Change watershed to "11.00 pm to 4.00 am".	The watershed has been revised to 10:00p.m. to 5:00am.  Note also that pornographic material is not permitted under the revised

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				Code.
Guideline to Rule 1.2	Stanley Temprow	The “watershed” is the period during which material that is unsuitable for children <del>cannot</del> shall not be shown. The watershed period commences at 9:00pm and ends at 5:30am.	Change “cannot” to “shall not”.	Noted. The document has been revised accordingly.
Guideline to Rule 1.2	Stanley Temprow	The language is ambiguous. The word “cannot” should not be used.		Noted. The document has been revised accordingly.
Rule 1.2 Watershed	Lesley Phleary	Morality and ethics are not for children only.	Remove the watershed	The Code is based on the freedoms granted in the Constitution and therefore recognizes the rights of adult to view programming of their choice while protecting vulnerable groups (such as children) from harm.
Rule 1.2 Protection of children Watershed	T&T Chamber of Commerce	We recognize that the establishment of watersheds is international best practice.		Noted.
Rule 1.3 Protection of children : watershed	Roberts PTA	The watershed is inappropriate. There are children who call into Dr. Raj’s radio programme late at night after 10.00 pm.		The watershed has been revised to 10:00p.m. to 5:00am.  Note also that pornographic material is not permitted under the revised Code. The Code does not discount parental responsibility in ensuring that children are not exposed to unsuitable material. Note also the provisions of Rule 1.16.
Guidelines to Rule 1.3	One Caribbean Media Limited		“07:00’ should read “19:00” for the 24 hour	The document has been revised accordingly.

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			clock (preferable) or 7:00 p.m.	
Rule 1. 4	HEPHZIBAH	“Cuss words” are used in prime-time programming.		Note the provisions of Rules 1.4 to 1.6.
Rule 1.4 Protection of children	Patricia O’Brien	There is no justification for “offensive language”. Anyone can justify use of words in context.	Delete “unless justified by the context”.	The Authority does not agree. Care must be taken not to attempt to impose disproportionate limitations on freedom of expression.
Guideline to Rule 1.4 – 1.6	Stanley Temprow	I am not sure how this is relevant since anyone - including children with their guardians - at anytime, walking along Charlotte Street - and many other public places - in Port of Spain, is subjected to the most foul litany of adjectives as though it is part of our base language; this appears to be a head buried in the sand approach.  But I agree it needs to be curtailed at any and every opportunity		Noted
Rule 1.4, 1.5, 1.6 Offensive language	TSTT	What is “offensive” is a subjective concept and difficult to regulate. Words relating to sexual orientation, race, etc may be considered as “most offensive”	Clarify “offensive” and “most offensive”. Include local vernacular.	Noted. The document has been revised to provide additional clarity.
Rule 1. 7 Violence	Indo-Trinbago Equality Council	Why the distinction between animated and non-animated cartoons. The former may have more of a connection to children than the latter.		The Authority believes that Rules 1.7 and 1.8 when read together provide adequate protection for children from violent content in both animated and non-animated children’s programming.
Rule 1.7 Violence	Patricia O’Brien	Children should not be exposed to violence.	Delete exception. “unless it is central to the development of character	The code must be consistent with the freedoms granted in the Constitution.

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			or plot” Delete 1.7 and 1.8.	
Rule 1.8	Heidi Hannibal	Where is violence important to the development of a child?	Animated characters portraying violence should not be broadcast.	The code must be consistent with the freedoms granted in the Constitution.
Rules 1.7 – 1.10 Protection of children	Rawle Harvey	There are no rules to disallow non-children programmes with violent material being aired outside of watershed.		Noted. The document has been revised accordingly.
Rule 1.7	Khadine Daisley	There's a great deal of violence in children's animated programming. Also need to be careful with programmes that carry a lot of sexual content e.g. Music videos.		The Authority believes that Rules 1.7 and 1.8 when read together provide adequate protection for children from violent content in both animated and non-animated children's programming. Note also the provisions of Rule 1.13.
Clauses 1.7 – 1.10	Ms. Chitama Tobago Channel 5	There are shows that are broadcast that are not suitable for children? How will TATT regulate the subscription providers to ensure that unsuitable material eg violent programmes and Family Guy are not shown to children?		The watershed has been revised to 10:00p.m. to 5:00am. Note also that pornographic material is not permitted under the revised Code. The Code does not discount parental responsibility in ensuring that children are not exposed to unsuitable material.
Rule 1.8 Children and crime Rule 1.7 Violence	Student St. Joseph's Convent	Differentiate crime and violence		Crime is an offence under the law which may or may not include violence.
Rule 1.9	Kamal Wakidee	This is vague. Who determines what is gratuitous?		The Authority will determine what is gratuitous based on the treatment of the particular theme.
Rule 1. 11 Sexual	Indo-Trinbago	Providing help-lines is the responsibility of Gov't, not the		The Authority does not agree.

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themes	Equality Council	broadcaster.		Broadcasters have a responsibility to ensure that they do not utilise their concession and licence to cause harm. Where their programming has the potential to cause harm the broadcaster should ensure that action is taken to militate against such harm.
Rule 1.11	Indo-Trinbago Equality Council	Take for example, fashion shows where there are children wearing bikinis. Who determines the sexual nature of a programme?		The Authority would have to determine whether the content is sexual in nature having regard to all the circumstances of the broadcast.
Guideline to Rule 1.11 to 1.14	Stanley Temprow	Themes such as child abuse or incest should be treated with utmost sensitivity and suitable warnings should be provided prior to airing “unless aired with the intent to educate potential victims”. This is a case of burying our head in the sand; all children are aware of their sexual nature and seek out information needed to “satisfy” their individual needs. Puritanical approaches will not have a positive effect. Human sexuality is natural and needs to be viewed as such.	Insert words in quotes.	The Authority does not agree. Programmes with sexual themes which are educational in nature may still require suitable warnings.
Guideline to Rule 1.11 Rule 1.13 Sexual themes	Patricia O'Brien	Editors should not be allowed to determine what is appropriate.	Delete exceptions.	The code must be consistent with the freedoms granted in the Constitution. Broadcasters' exercise of editorial judgement in the selection of appropriate material is subject to the requirements of the Code.
Rule 1.13 Sexual behaviour	Indo-Trinbago Equality Council	“Sexual behaviour” and “editorially justified” are undefined	Define	Noted. The Authority considers the term “sexual behaviour” to be clear

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				enough to enable interpretation when necessary. However, the term “editorially justified” has been defined.
Rule 1.15 Children and drugs	Tazia Abdool Naparima Girls High School	What criteria would be used to determine what songs are inappropriate?		Songs which condone, glamorize or encourage the misuse of drugs, alcohol, solvent abuse and smoking, in any way, will be regarded as inappropriate.
Rule 1.16	Kamal Wakidee	How is a radio talk show host to determine the age of someone calling into a programme? What actions would be taken against me if the person is a minor and I do not know?		Broadcasters must take reasonable steps to verify the age of the caller in circumstances where there may be reason to believe that the caller is a child or young person.
Guidelines to Rule 1.16	One Caribbean Media Limited	The phrase ‘Broadcasters should exercise responsible judgement (sic) as adults..’ strains for a sensible interpretation.		The document has been revised.
Rule 1.19	Indo-Trinbago Equality Council	Code places undue responsibility on broadcaster to “minimize psychological trauma to children”		The protection of children is a core obligation of any progressive society and the responsibility placed on broadcasters is reasonable.
Rule 1.18 – 1.19	Kamal Wakidee	Are we being guided by Children’s Law? Isn’t this still in Parliament?		The protection of children is a core obligation of any progressive society and the responsibility placed on broadcasters is reasonable.
Rule 1.19	Indo-Trinbago Equality Council	This is an attempt to censor news.		The Authority does not agree. The clause does not attempt to censor the news.

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<b>RULE 2 – HARM AND OFFENCE</b>				
Rule 2. Harm and Offence Objective: To ensure that standards are applied to provide adequate protection for listeners and viewers against harmful or offensive material	TTPBA	Giving offence is not only acceptable but also necessary in a healthy democratic society because sometimes it is necessary to give offence to protect what really matters. And it is in multi racial, multi ethnic Trinidad and Tobago that giving offence has meaning for it is in such a plural society that conflicting viewpoints with vigorous public debate is required in order for progressive movements for change to flourish and for each individual to be given the information to uncover the truth without having the Authority impose censorship via the broadcast code.	Rules and Objective to be deleted entirely.	The Authority does not agree. Although it is not unlawful to give offence the Code seeks to address gratuitously abusive or unduly discriminatory broadcasts based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental ability. This is a legitimate aim consistent with the Equal Opportunity Act 2000.
Rule 2.1 Harm and Offence	Anil Goorahoo	Does the media not have the right to be biased and abusive on the basis of race, religion etc.		The media's right to freedom of expression is not absolute and exists in the context of other individual rights.
Rule 2.1 Harm and Offence	Indo-Trinbago Equality Council	Rule "places subjectivity on the role of the broadcaster"		The Authority does not agree. In selecting material, broadcasters are required to ensure that the content is compliant with the Code
Rule 2.1 Harm and Offence	Dr. Sandy	Does the Code restrict the broadcast of some calypsos whose content may be considered derogatory?		Whether content is in breach of the Code will be determined by the Authority based on the context. Note that calypso music may fall under the exception of satire and humour. See also Rule 12.3.
Guidelines to Rule 2.1	One Caribbean Media	The phrase 'unduly discriminatory material' which is used	The adjective 'unduly'	'The document has been revised for

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	Limited	twice in this section, leaves the impression that some amount of discriminatory material not rising to the level of 'unduly discriminatory' would be acceptable.	should be dropped.	greater clarity.
2. Harm and Offence (Page 18)  "2.1 Broadcasters shall ensure that their programming contains no gratuitously abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental disability."	TTPBA	It is not against the law to give offence.  There cannot be free speech when there is always the fear of giving offence. As has already been pointed out, there is a difference between discrimination and offence. Discrimination is against democracy; but if you accept offence as a crime you affect freedom of speech and begin to undermine democracy.		The Authority does not agree. Although it is not unlawful to give offence the Code seeks to address gratuitously abusive or unduly discriminatory broadcasts based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental ability. This is a legitimate aim consistent with the Equal Opportunity Act.
Rule 2.2	Indo-Trinbago Equality Council	Attempt to censure public participation in talk shows		The Authority does not agree.
Rule 2.4	Indo-Trinbago Equality Council	"Anti-social" is not defined. How will Code deal with foreign media that glamorize violence?		Additional guidance on anti-social behaviour is given in the Guidelines to Rule 2.4. If foreign content is re-broadcast in Trinidad and Tobago it must be consistent with the Code.
Rule 2.4 Harm and Offence	Patricia O'Brien	How does the Code deal with some types of rap music broadcast on the Internet, which seem to encourage gun violence which does not send a positive message to young		The Code does not regulate Internet broadcast.

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		people.		
Rule 2.6 Cruelty to animals	Royston Boodoo	Why not include cruelty to humans also?		Noted. The document has been revised.
Rule 2.7	Indo-Trinbago Equality Council	This is an attempt to censure ideas and beliefs and open to abuse of interpretation.		The Authority does not agree.
Rule 2.7, 2.9 Harm and Offence	TSTT  Family Focus Broadcasting Network	Need to define "due objectivity"	Define what treatment would satisfy the requirement of "due objectivity"	"Due" is defined with reference to the context, as "adequate or appropriate to the subject and nature of the programme". The document has been revised to provide greater clarity.
Rule 2.7 Occult	Lesley Phleary	Occult should not be encouraged as entertainment.	Ban anything that can be adjudged "occult".	The Authority does not agree.
Rule 2.8	TSTT	Last line of Guideline is repetitive.	Guideline should indicate how a broadcaster can make it clear that a demonstration is for entertainment purposes.	The Guideline has been revised to provide greater clarity.
Rule 2.9 "Life-changing advice"	Family Focus Broadcasting Network	Rule in breach of constitutional rights as Evangelicals to proclaim the Gospel and encourage changes in the lives of individuals.	Amend	The Authority does not agree. Freedom of religious belief and observance can only be sustained if there is respect for and tolerance for different religions and denominations
Rule 2.9	Heidi Hannibal	Why should life-changing advice not be given? How can we distinguish programme for "entertainment" or money-making?		The distinction is between programmes that purport to demonstrate real-life situations and those based on fiction.
Rule 2.11	TSTT	Misplaced under this Rule. Unfair to local broadcaster to apply Rule to "international competition" programmes.	Limit to local or regional competition programme	Noted. The document has been revised.

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			only.	
Rule 2.11 Harm and Offence	Indo-Trinbago Equality Council	Scope too wide re: role of broadcaster in verifying competition.		Noted. The document has been revised.
<b>RULE 3 - CRIME</b>				
Guideline to Rule 3.1	TSTT	Meaning of “disorder” and “incitement to crime” same.	Differentiate the two terms.	The document has been revised accordingly.
Rule 3 <u>Crime</u>  Objective: To ensure that material likely to encourage or incite the commission of crime or to lead to disorder is not broadcast.	TTPBA	Each concessionaire is bound by the laws of Trinidad and Tobago, which make it an offence to participate in the commission of a crime.  The word “disorder” is defined in the Guideline to Rule 3.1 as follows:-  “Disorder refers to acts that may lead to or provoke the commission of crime. This definition is already contemplated and included in the Objective and there is no need for repetition.	Delete the words “or to lead to disorder”	The Authority has revised the document to delete the definition of disorder.
Guidelines to Rule 3.1 Crime Broadcasters have a responsibility to avoid the broadcast of material that is likely to encourage the commission of crime or that may lead to disorder.	TSTT	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 “or other legal punishment”.	Insert words in quotes.	The document has been revised accordingly.
Rule 3.2 Guideline	TSTT	Guideline repeats Rule	Delete Guideline	The document has been revised accordingly.

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Rule 3.4	TSTT	Rule should not be limited to "hijack and kidnapping"	Broaden application of Rule to all crime.	The document has been revised accordingly.
Rule 3.4 Crime	Indo-Trinbago Equality Council	"Best endeavours" is subjective.		The document has been revised.
Rule 3.5 Crime	Indo-Trinbago Equality Council	An attempt by TATT to influence media news content		The objective of this Clause is to ensure that news is accurate.
Rule 3.5	Royston Boodoo	How does the Code seek to limit the type of over exposure of the crime situation or the hype/exaggeration that is broadcast by the media? There should be a mechanism to ensure that the media is responsible.		The proposal constitutes an unjustifiable limitation on the right to freedom of expression and freedom of the press. The objective of this Clause is to ensure that news is accurate.
Rule 3.5 Crime statistics	Rawle Harvey	Statistics could be misleading. Technically the figures may be true but still misleading		The objective of this Clause is to ensure that news is accurate.

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Rule 3.5 Crime	One Caribbean Media Limited		Should be deleted. We can only guess at the Authority's intention here, but the enjoinder applies to the use of statistics and factual material in any circumstance not just crime, and the interpretation of statistical trends is a matter for expert assessment not necessarily within the purview of the News Director.	The Authority considers that the reporting of crime or criminal activity should be addressed with particular care by broadcasters.
Rule 3.6	TSTT	Clarify what material may be considered as endangering the security of Trinidad and Tobago.	Amend Rule to state "unless warranted or editorially justified".	The material will have to be considered on a case by case basis.
Clause 3.6: Crime	Karl Cupid Reporter	To what extent do we declare hostility to another country?		This phrase has been deleted.
Rule 3.6 Crime	One Caribbean Media Limited		This clause is fraught and best left to editorial judgment.	The Authority does not agree. The protection of the security of Trinidad and Tobago is of critical importance.

**RULE 4 - RACE**

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Rule 4 Race  Objective: To ensure that programmes do not involve any abusive treatment of persons on the basis of the racial group to which they may belong and to treat all groups with due impartiality.	TTPBA	Impartiality is achieved from the expression of a plurality of viewpoints. Impartiality, in the given context cannot be achieved by legislation but rather by the Authority ensuring that there is a multiplicity of voices from which the public can choose.  What is required is respect for all racial groups and that principle is already encompassed in the Objective which seeks to prevent abrasive treatment based on race.	Delete the word “may” and the words “and to treat all groups with due impartiality.” from Objective.	The Authority does not agree that multiplicity of voices achieves impartiality. Discrimination by any station should be avoided. The Objective is legitimate and the proposed measures reasonable and proportionate to the achievement of this aim.  However, the Authority has deleted “may” as suggested.
Guidelines to Clause 4 Race	One Caribbean Media Limited	The statement that “the only biological basis of race lies in genetic groupings based on markers which do not reflect phenotypical or behavioural traits” requires review by an expert in genetics or biology; some biologists suggest that there is no biological basis for a concept of race at all.		Noted. The Authority has revised the language.
Section 4  Family Life	Margaret Doman	Should the Code speak to media to promote certain value and nation building as media has certain influence on your mind?		The proposal constitutes an unjustifiable limitation of the right to freedom of expression and freedom of the press. Because of freedom of expression the Authority cannot force broadcasters to promote country unity. The Authority endorses the suggestion that the media should seek to promote nation building.
Rule 4 Race Guideline to Clause 4 Principle	Stanley Tempro	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	Insert words in quotes.	Noted. The Authority has revised the language.

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		traits 'unless scientifically proven empirical evidence exists'.		
Rule 4.1 Race	TSTT	Meaning of "derogatory racial labels" unclear.	Delete the term or clarify same.	Derogatory refers to the use of labels to describe a racial group or members of a particular racial group in an insulting or disparaging manner.
Rule 4 Race	Jim Greaves	How is TATT going to deal with the media's potential for creating ethnic divisions in the society?		Rules 4.1- 4.3 seek to deal with this issue.
Rule 4.2 Race	Indo-Trinbago Equality Council	Why does this section approve racial satire?		The Code does not seek to reduce freedoms granted in the Constitution. If the content is clearly satirical, the Code cannot seek to prevent its broadcast. The Code has been revised to provide that it must be clear that the content was satirical.
Rule 4.3 Race	TSTT	Not appropriate to dramatic presentations that treat with racial matters.	Limit to documentaries. Should also include appropriate warnings.	Agreed that use of "programmes is too broad" The language has been revised.
Rule 4.3 Race	Indo-Trinbago Equality Council	"Unduly" demands the broadcaster to alter content to suit TATT		Unduly is a qualification of the level of discriminatory material that is permitted. The language has been revised for greater clarity.
<b>RULE 5 – NEWS AND PUBLIC AFFAIRS</b>				
Rule 5.1 News and Public Affairs	Marina Browne	Sometimes the media gives misleading information.		News must be reported as accurately as possible.
Rule 5. 1	Ricardo Charles	How does the Code deal with explicit material (violence,		The Code deals with it in two ways:

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	Pt. Fortin Borough Corp.	murder) broadcast on TV?		Imposing requirement of appropriate scheduling (watershed) and suitable advisories. See Rule 1.1 and Rule 10.1
Rule 5.1 -6 News and Public Affairs	Indo-Trinbago Equality Council	Implicit intent to promote the censorship of news		The Authority does not agree. The objective of this Clause is to ensure that news is accurate.
Rule 5.1 News and Public affairs	Anil Goorahoo	Should a Code regulate media content/news content? It is the right of broadcasters to be unjust/unfair as they see fit.	The media should be allowed to report news accurate/inaccurate, partial/impartial as they see fit. It should be left to market forces.	The objective of this Clause is to ensure that news is accurate.
5. News and Public Affairs (Page 21)  "5.2 News broadcasts should not be used to make editorial comments or for the purpose of promoting or downplaying either side of any matters of political or industrial controversy."	TTPBA	Can TATT then look at/listen to a news broadcast and determine that it was, in the way in which it was done, editorial comment?		Yes. The Authority's role is to ensure that news is accurate.
Section 5.3	TTPBA	Harsh and oppressive to punish broadcaster for re-broadcasted material particularly in compliance with must-carry obligation	Establish clear Guidelines for imposing sanctions. Classify "serious	If foreign content is re-broadcast in Trinidad and Tobago it must be consistent with the Code.

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			breaches” and minor penalties for minor breaches.	The document has been revised accordingly.
Guidelines to Rule 5.3 News and Public Affairs	TTPBA	Broadcasters should make a clear distinction between news analysis and opinion and regular news. “and declare the distinction”.	Insert words in quotes.	The Authority does not agree. The Rule and Guideline is adequate to ensure that News and analysis and opinions are clearly distinct.
“5.4 Background to news, news analysis, and opinion, save in the case of political or special-interest opinion, must be based, as appropriate, on the most reliable scientific data, sound social concepts, and expert opinion.”	TTPBA	This can undermine a broadcaster’s right to protect its sources.		It is the duty of broadcasters to ensure that news is accurate.
“5.6 Significant errors in news should normally be acknowledged and quickly corrected on-air. If immediate correction is not possible, corrections shall be appropriately scheduled to reach the same audience which	TTPBA	If the error occurred in the lead story on the 7:00 p.m. news on television, then the broadcaster must carry the correction in its lead story in order to reach the same audience? But the broadcaster may have another lead story that evening.		The broadcaster is required to make the correction so that it reaches the same audience that received the misinformation.

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originally received this misinformation.”				
Rule 5.7 News and Public Affairs	Columbus Communications	Need to clarify instances when broadcasters are required to make clear their political ideology or viewpoints.	This should be required only when their particular viewpoints are of relevance to issues discussed.	This proposal may not be practical to implement.
Guidelines to Rule 5.7 News and Public Affairs	Stanley Temprow	Guidelines to Rule 5.7 The exceptions to the requirement of objectivity and balance are political or special interest opinion or programmes geared towards a narrow audience, provided they are labeled as such “and the broadcaster shall state their particular affiliation to such views, if any, otherwise they shall state their impartiality”.	Insert words in quotes	The document has been revised accordingly.
“5.7 Provided that the producer and host(s) of talk shows and call-in programmes make clear to the audience, by appropriate means, that they are partial to a particular viewpoint, ideology, or have a particular political allegiance, such talk shows and call-in programmes shall be exempted from the requirement to be impartial and	TTPBA	If, for instance, the broadcaster invites say, Selwyn Ryan, to host a programme, as is sometimes done, he must state his political allegiance? The guest host might not want to do so.  The clause also implies that there is a need to be impartial and balanced. This is impossible to legislate and the closest one can come to a guarantee is to make sure that there is a plurality of media voices, which will provide the public with several viewpoints.		The Authority does not agree that multiplicity of voices achieves impartiality.

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balanced.”				
Rule 5.8	Indo-Trinbago Equality Council	Attempt by TATT to manipulate the news		It is the duty of broadcasters to ensure that news is accurate.
Guideline to Rule 5.8 News and Public Affairs	Stanley Tempro	....” a candidate or prospective candidate for any national or local election or any individual considered to be in a position dictated by political design, e.g. executives of State-run organizations”.	Insert words in quotes.	The Authority does not agree. The proposal would constitute an excessive limitation on freedom of expression.
Guideline to Rule 5.8	Rawle Harvey	Members of Tobago House of Assembly are excluded.  Need to define “prospective candidate”. Does it include a person who has been announced as a candidate but not yet nominated?		The document has been revised accordingly.
<b>RULE 6 - ELECTIONS</b>				
Rule 6 Elections Objective	Columbus Communications	Drafting of Objective should be more neutral. The responsibility ‘to ensure that citizens receive a sufficient range of information..’ does not fall within the purview of the Authority.	“During an election period, a licensee shall allocate time for the broadcasting of programs, advertisements or announcements of a partisan political character on an equitable basis to all accredited political parties and rival candidates represented in the election or referendum” (Canadian Code)	The Authority does not agree. The Code has been drafted in a manner to ensure that members of the public receive a diversity of political views and opinions of political parties during the election period.
Clause 6 Elections; Objective	One Caribbean Media Limited	The objective put forward in the Draft Code goes too far. Firstly, there is no obligation on a broadcaster to cover politics and/or elections at all or to cover elections in any particular manner. As the Draft Code recognises in Clause	The Draft Code should make clear that the rules and guidelines in respect of Elections should apply	The Rule when read together with the Guideline makes this clear. The document has been revised to insert the phrase in the Rule.

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		6.1. Editorial judgment is paramount. Secondly, the onus is on political parties not the media, to get their message across to the populace. Thirdly, a broadcaster may itself have a political or ideological position and may well choose to articulate and defend that position. Note that this may not necessarily extend to 'support of a political party' as outlined in clause 6.5 of the Draft Code. A broadcaster may embrace a political or ideological position, but may not support any particular political party running for elections. 'Balance' is not necessarily achieved only by a given broadcaster providing "a reasonable opportunity to have... views and opinions aired", but by several broadcasters and media platforms providing the media through which various views can be aired.	only during a 'period of election' which should be defined, and to the type of elections to which the Code will apply.	
Rule 6	Anil Goorahoo Deosaran Bisnath	Why single out political decisions?		The Authority considers the democratic process to be sufficiently important to warrant individual treatment.
Rule 6 Elections  Objective: To ensure that citizens receive a sufficient range of information, views and opinions, as well as facts, so that they can make well-informed political decisions.	TTPBA	Broadcasters cannot be dealt with in isolation but as a multiplicity of broadcasters and other media voices because it matters not where the public get their information be it radio, television or press. The important thing is that they get it. The stated objective can be achieved without any provision in the Code.	Remove Rule and Objective	The Authority's responsibility is to regulate the practices of concessionaires of broadcasting services under the Act.
Section 6: Elections	Dianne Antoine	Why have we highlighted elections? Political ads go on throughout the year thus this clause should be enforced throughout.		The Authority does not agree. The proposal would constitute an excessive limitation on freedom of

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				expression. In any event the document has been revised.
	Ms. Dowell	Politicians should be given equal opportunity in broadcasting. If a politician has more money, can he spend more on advertising and the station be labeled as biased		The Authority does not agree. Broadcasts on behalf of political parties are allowed provided they are labelled as such.
Clause 6 Elections	One Caribbean Media Limited	The Code should recognise that political parties may buy airtime from broadcasters to get their messages across to the population and that the differential endowment of parties may result in apparent lack of 'balance'.	We would recommend that the section on Elections be deleted; the objective stated therein is inappropriate to a Broadcast Code, and the strictures which it seeks to place on broadcasters are inappropriate and onerous. The Authority should seek to ensure that broadcasters develop internal codes or rules governing the reporting of elections.	The document has been revised. (See legal advice).
Rule 6.1 Elections	Indo-Trinbago Equality Council	Continues to dictate the current affairs and news of broadcasters content.		The Authority does not agree. The objective is to ensure balanced reporting during the period of elections.
"Rule 6.1	TTPBA	Should include "for stations which carry political programmes or news".  Is this free of charge to the political parties? It should be made clear that it is not or is left to the broadcaster to decide.		The Authority does not agree. It is of the view that this is a commercial matter to be decided by the

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				broadcaster and the political party.
“6.2 When hosting political discussions or debates involving partisan speakers, the broadcaster shall make clear throughout the programme the political nature of the programme and the specific partisan affiliations of the speakers.”	TTPBA	Why do the speakers have to declare their partisan affiliations? A speaker may take a particular angle for purposes of the discussion/debate, why should he/she have to make a declaration?		The objective of this Rule is to ensure that viewers/ members of the public are made aware of the particular biases of the speakers/ presenters, if any.
Rule 6.3 Elections	Rawle Harvey	Allegations are normal and numerous during elections and it may be onerous for the broadcaster to verify whether several allegations could be substantiated.  The phrase “If this is not possible or likely to be possible” looks and sounds awkward		The Rule does not require that all allegations should be substantiated but where they are not, the broadcaster should so indicate.  The document has been revised accordingly
Rule 6.3 Elections	Stanley Temprow	Changes must be made especially with regard to the words "should" and/or "must" being changed to the word "shall" as there are significant legal implications in this regard.	Change “should” or “must” to “shall”.	The document has been revised accordingly
<b>RULE 7 - FAIRNESS</b>				
Rule 7 Fairness  Objective: To ensure that broadcasters avoid unjust or unfair	TTPBA	This Rule has a chilling effect on broadcast programming. Fairness is a subjective concept that is fluid and dynamic and depends on the particularity of person, time and circumstance.  If a concessionaire is forced to follow this stated edict, talk	Remove Rule and Objective.	The objective is legitimate and the measure contained in the Rule is proportionate to achievement of the objective.

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treatment of individuals or organizations.		<p>show programmes will have the consistency of baby food – soft, tasteless, with no spice and solids. Creativity would be effectively neutered. No one brought up in vibrant, exciting Trinidad and Tobago is going to accept such dull programming and there will be a mass exodus to cable television along with advertising revenue. This will be unfair to local broadcasters and will do nothing to boost the local entertainment industry. Any suggestion that this part of the proposed Code will result in a nice, well-mannered society which displays social grace and civil behaviour must be viewed as a deliberate attempt to disguise the real and dangerous effect of the provision which is the loss of freedom of speech. This violation of the Constitution is unjustifiable in a democratic society.</p> <p>In any event, concessionaires are bound to operate within the law and to have a proper respect for the rights and freedoms of the individual.</p>		
Rule 7.1 Fairness	Indo-Trinbago Equality Council	This is another example of the subjective ill-defined		The Authority does not agree. The Rule requires broadcasters to avoid unjust and unfair treatment of individuals and organizations and the practices define ways in which they can avoid unfair and unjust treatment.
Guideline to Rule 7.1 - 4	TSTT	Fairness is not defined.	Amend Guideline.	The term “fair” is defined in Section 3A of the Code.
Rule 7.1 (iii)	TSTT	If a broadcaster breaches this Rule a contributor has adequate recourse for breach of contract against him.	Delete this Guideline	The Authority does not agree. ‘Contributors’ are not limited to persons who have a contract with the broadcaster. See Guideline for

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				definition of “contribute”. (Define ‘contributor’).
Guideline to Practices 7 (iii) – (iv) Fairness  <i>Fairness should also be practiced in honouring guarantees to contributors</i>			Change “should” to “shall”.	The Authority does not agree. The Clause only contains one rule and Clauses 7.1 (i) to (vii) are practices to be followed by broadcasters in order to avoid breach of the Rule.
Guideline to Rule 7.1.1 (iv) Fairness	TSTT	It may not always be possible to ensure that a contributor is made aware of changes in programme in heat of exchange/discussion.	Exclude liability for breach “if broadcaster acted reasonably or material editorially justified.	In such cases the Broadcaster must take all reasonable steps to inform the contributor. The Authority would consider such conduct in reviewing any allegation of breach.
Rule 7.1 iv.	Family Focus Broadcasting Network	Rule has the potential to encourage a perpetual battle of “allegations” and rebuttals. Not appropriate. Can cause religious wars. There are other laws (blasphemy or sedition) to deal with this situation.	Amend accordingly	The Authority does not agree that the remedy proposed will be appropriate or adequate in all circumstances.
Guideline to Rule 7.1 - 4	TSTT	Fairness is not defined.	Amend Guideline.	The term “fair” is defined in Section 3A.
	Ital Lion Promotion and Management	There is unfairly balanced competition in favour of international and regional programmng	Ratio of local to international and regional should be 60:40	Local content falls outside the ambit of the Draft Code.
<b>RULE 8 - PRIVACY</b>				
Rule 8 <u>Privacy</u>  Objective: To ensure that broadcasters respect the privacy of individuals in	TTPBA	The Code is not about making law. In fact the provisions of the Code cannot go outside of existing laws including and especially the Constitution. Each concessionaire is bound by the law and must adhere to the provision of the Constitution including s.4 (c), which provides for the right of the individual to respect for his private and family life.	Remove Rule and Objective	The Authority is responsible for “regulating broadcasting services” in accordance with (S.3) of the Act and the practices of concessionaires of broadcasting services” in accordance with (S.79)

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programmes and in connection with obtaining material included in programmes.				In regulating broadcasting services, the Authority is required to balance the rights of broadcasters against the rights of individuals under the Constitution
Rule 8 Privacy	Indo-Trinbago Equality Council	Infringes role of media in a free and open society		The media's right to freedom of expression is not absolute and exists in the context of other rights of the individual..
	Anthony Hector (Tobago consultation)	There are other sections that are left out – sex, same sex marriage.		These matters are addressed in Clause 2 of the Code: Harm and Offence.
Rule 8.1 Privacy	Stanley Temprow	“Where the circumstances can be proven to be of a matter of national security or serious crime,”	Insert	The Authority does not agree. These issues have been sufficiently addressed in the Code.
Clause 8.1.	Kamal Wakidee	Take for example the case where the students that cheated on the A' level and O' level exams; are these persons not supposed to be recorded by broadcasters?		The Code and the existing law prevent the disclosure of the identity of persons under the age of eighteen.
Rule 8.1 (i) Privacy	TSTT	Clarify how information in the public domain is to be treated.	Rule should exclude information legitimately in the public domain.	The document has been revised accordingly.
Rule 8.1 (i)	Dianne Antoine	Where do we draw the line between the right for the public to know and privacy?		An individual's privacy may be infringed where public interest outweighs his/her right to privacy. See definition of public interest in Section 3A.

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8. Privacy – Practices 8.1.ii. Events in a public place	TTPBA	How would this affect news coverage say of Carnival, or an event at the breach. Would that be warranted?		The Authority will determine what is warranted based on the context at the time the material is broadcast.
Guideline to Rule 8 (iii) – 8 (iv)	Rawle Harvey	Can a person who attempted unsuccessfully to commit suicide in Woodford Square, really claim that his privacy is violated?		The Authority will determine what is “warranted” based on the context at the time the material is broadcast.
Rule 8.1 iii- vi (Consent)	Family Focus Broadcasting Network	“infringe the privacy of a person” is vague.	Clarify.	The Authority does not agree. The practices when read in conjunction with the Rule and Guidelines are sufficiently clear.
Rule 8.1 (v)		There should be no breach where an individual is inadvertently recorded in an investigation where there is no wrongdoing by the broadcaster.	Include example of what is to occur if one requests live broadcast to be stopped.	The Authority will determine what is warranted based on the context at the time the material is broadcast.
Guidelines to Practices 8(iii) – 8(iv)	Stanley Temprow	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 “unless it can be proven that access, although easy, may have contravened trespassing laws in existence at the time of the trespass”.	Insert words in quotes.	The Authority does not agree. It is of the view that the proposed change will make enforcement onerous.
Practices 8.1 iv	Stanley Temprow	Any infringement of privacy in the making of a programme should be with the person’s and/or organization’s consent or be otherwise warranted “where the circumstances can be proven to be of a matter of national security or serious crime”.	Insert words in quotes.	The Authority does not agree. The term “warranted” takes into account the circumstances proposed.
Practices 8.1 vii.	Stanley Temprow	vii. When filming or recording in institutions, organizations or other agencies, permission shall be obtained from the relevant authority or management, unless it is warranted to film or record without permission “where the circumstances		The Authority does not agree. These issues have been addressed with sufficient clarity, in the Code.

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		can be proven to be of a matter of national security or serious crime”.		
Practice 8.vii	TTPBA	If a man is being beaten inside a police station, would it be warranted?		The Authority will determine what is warranted based on the context at the time the material is broadcast.
Rule 8.1 (viii)	TSTT	Rule should prevent broadcast of recordings of a person’s actions or words, not actual “recording”.	Revise Rule.	The document has been revised accordingly.
Guideline to Practices 8 (ix) – (xi)		Too much invasion of grief		The Authority does not agree. The broadcaster has a duty to exercise sensitivity and care in these circumstances.
Practices 8.1 (iii) and 8.1 (iv) Privacy	One Caribbean Media Limited	These purport to restrict broadcasting of images from a public place or recording of words of actions of “private individuals” in a public place (but not so-called “public figures”) where the privacy of the individual is invaded or result in ‘humiliation, embarrassment or ..public opprobrium’. The practical difficulties of giving effect to these strictures are so enormous that they would effectively fetter broadcasters.	We suggest that these matters be left to the existing legal remedies which an individual has for redress.	This proposal would lead to an excessive limitation of an individual’s right to privacy.
<b>RULE 9 – RIGHT OF REPLY</b>				
Rule 9. Right of Reply  Objective: To ensure that members of the public are able to correct inaccuracies or misleading information broadcast in relation to them or organizations to which they are	TTPBA	This Rule ought to be divided into 2 sub rules, one dealing with the right of reply of a concessionaire against whom a complaint has been made and a separate rule dealing with the correction of an inaccuracy as broadcast by a concessionaire.	9 (A) “ <u>Investigation of Complaint</u> ” Objective: To ensure that the Concessionaire against whom the complaint has been made is informed promptly and with sufficient particularity of the complaint, and given an opportunity to meet	The Authority does not agree. The right of reply is a remedy provided by the concessionaire to an individual or organizations affected by material broadcast. The broadcaster’s right to be heard is more appropriately dealt with under Compliance and Enforcement procedures.

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affiliated.			<p>with the complainant and the Authority in an attempt to resolve the complaint.</p> <p>9 (B) <u>“Correction of Inaccuracy”</u>            Objective: Add the words as underlined below after the word “affiliated” as it appears in the present Objective to read–            misleading information broadcast in relation to them or organizations to which they are affiliated  <u>“provided that the Authority is satisfied that there is merit in the complaint.”</u>  <u>is satisfied that there is merit in the complaint.”</u></p>	<p>Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.</p>
			<p>To ensure that members of the public are able to correct inaccuracies or misleading information broadcast in relation to them or organizations to which they are affiliated  <u>“provided that the</u></p>	<p>Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.</p>

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			<u>Authority is satisfied that there is merit in the complaint.</u>	
Rule 9 Right of Reply	Indo-Trinbago Equality Council	Insensitive to the practical operations of news rooms and station management		The document has been revised accordingly.  Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.
Rule 9.1 Right of Reply	TSTT	Rule should not apply to broadcasters fulfilling its “must carry” obligations or is re-broadcasting content.	Limit Right of Reply to broadcaster who broadcast the incorrect information.	The Code regulates broadcasting concessionaires who must ensure that the material broadcast is in compliance with the Code.  Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.
Clause 9: Right of Reply (9.1 and 9.3)	Karl Cupid	How far will the ‘right of reply’ be when the person who is “wronged” has to go to the same broadcaster to get a right of reply? How fair is this to the broadcaster? Who decides this?		The Authority determines whether the broadcast of the material is in breach of this Rule and whether the

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		Not everyone can afford to go to court.		individual is entitled to a Right of Reply in the circumstances.  Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.
Clause 9.2	One Caribbean Media Limited		Change 'deny' to 'refuse'.	Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code.
Guideline to Rule 9.2	TSTT	If the Authority considers that the claim brought by the aggrieved person can be substantiated, it may order the broadcaster to give an appropriate right of reply within a reasonable period and at a reasonable "and appropriate" place within the broadcast schedule.	Insert words in quotes.	The Authority does not agree.  Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.
Rule 9.3 Right of Reply	Stanley Tempro	An application for exercise of the right of reply may only be rejected if such a reply is not justified according to the conditions laid down in Rule 9.1, or if to accept it would be likely to involve a punishable act or result in civil or criminal liability to the broadcaster.	I am not sure how this should be corrected but it seems unfair to reject an application for exercise of rights on the grounds that	The Authority does not agree. In exercising its regulatory function, the Authority must have regard to the obligation of broadcasters to comply with existing civil and

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			“it might tend to incriminate the Broadcaster” especially if the broadcaster is culpable of an unfair, unjust or illegal act.	criminal law. However, please note that the language has been revised.  Please note that the Right of Reply has been removed in the Code. A remedy of correction has now been included in the Code to address circumstances where inaccurate or misleading information is broadcast about a person.
<b>RULE 10 – INFORMATION AND WARNINGS</b>				
Rule 10. <u>Information and Warnings</u>  Objective: To ensure that viewers and listeners are given information and warnings about programming that contains any material that is capable of causing offence.	TTPBA	The Objective in its present form calls for warnings to be given for programming that contains material capable of causing offence. However, it may be appropriate to give warnings for programming that may also be particularly graphic or sensitive. Thus the suggested redraft of the Objective imposes the exercise of discretion of the concessionaire in appropriate circumstances.	Revise Objective as follows- To ensure that viewers and listeners are given information and discretionary warnings about programming that warrants such.	The Authority has revised the document accordingly.
Rule 10	Indo-Trinbago Equality Council	Too subjective and open to abuse		The Authority does not agree. This Rule must be read together with other Clauses in the Code.
<b>RULE 11 – ADVERTISING AND SPONSORSHIP</b>				
Rule 11. Advertising and Sponsorship Objective	TTPBA	The phrase to be deleted is superfluous and thus unnecessary.	Delete from Objective: “and to ensure that advertising does not cause	The document has been revised.

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			unnecessary harm or offence.”	
Rule 11	Dianne Antoine	Sex sells – This is the driving force behind most advertising. How do we control what is shown for Carnival etc.? Children should be protected but it is expected to see wining etc during Carnival as it is now part of our culture. Can you stop AIDS without showing the preventative measures such as condom use?		The Code does not seek to prohibit all sexual behaviour. It is the context in which it is shown e.g. in the Olympics persons wear 2 piece outfits for athletic events. This focuses on sports and not sexual activity.
Rule 11.4 Advertising	Indo-Trinbago Equality Council	Not the role of the broadcaster to do research on health cures		The role of the broadcaster is to ensure that the scientific data is available. It may be from the advertiser or the supplier as appropriate. The document has been revised to provide greater clarity.
Section 11 Advertising	Columbus Communications T'dad Ltd	Distinguish Advertising from Sponsorship. TATT can work with existing body- Advertising Standards Association.	Focus on sponsorship not advertising. The latter should be self-regulated according to st'ds developed by advertising sector within context of related law.	The Authority does not agree. The Authority as Regulator is mandated to regulate the practices of concessionaires of broadcasting services, including advertising content which is subject to the same restrictions as programme content.
Rule 11 Advertising and Sponsorship	Dr. Michael G. Lines	The Code seems to cover advertisement in English only. Would the Code require English sub-titles or voice over to be broadcast where a programme is broadcast in a foreign language.		The Code does not require that broadcasters make use of sub-titles where programmes are in a foreign language.
Rule 11	Tonia Gooding	On certain “children channels”, the advertisements for		The Code provides that the same

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Advertisements		programmes to be aired after the watershed are broadcast. This defeats the purpose.		Rules that apply to programming shall apply to advertisements. Therefore any advertising content that is unsuitable for broadcast in a children's programme or before the watershed will be in breach of the Code.
Rule 11	Dr, Michael Lines	The broadcast of advertisements during Olympics was inappropriate.		The scheduling of advertisements is not regulated by the Code unless the material is inappropriate for the period during which it is broadcast.
Rule 11	Deosaran Bisnath	There needs to be less alcohol advertising. TATT has a responsibility.		The Authority is of the view that in the absence of any legislation that prohibits alcohol advertising, the proposal constitutes an excessive limitation on freedom of expression.
11. Advertising and sponsorship Page 28  "11.3 Broadcasters shall ensure that there is no influence by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs, which must be accurate, balanced, and objective	TTPBA	Does this mean on a Health News segment, sponsored by say Glaxo Smithkline, cannot report that Glaxo has made a break through and now offers a drug that cures AIDS, even when there is scientific evidence to prove it?		Broadcasters have a duty to ensure that there is a clear separation between news and formal advertising so as to avoid the perception that advertisers are influencing the reporting of news or public affairs. That is a matter that will be determined by the Authority on a case by case basis having regard to the circumstances at the time when the material is broadcast.

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Rule 11.3 Advertising and Sponsorship	Stanley Tempro	Broadcasters shall ensure that there is no influence by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs, which must be accurate, balanced, and objective “insofar as the broadcaster has been reasonably able to ascertain the accuracy, balance and objectivity of the report”.	Insert words in quotation.	The Authority does not agree. The Authority determines whether reporting of news and current affairs is accurate, balanced or objective having regard to the circumstances at the time the material is broadcast.
Rule 11.3	Stanley Tempro	The “broadcaster/” concessionaire shall be given a reasonable period of time to implement such changes, and shall suspend its broadcast of the offending programme until such time as the “broadcaster/” concessionaire has implemented the necessary “corrective” steps to the reasonable satisfaction of the Authority.	Insert words in quote.	The Authority does not agree. Matters of compliance are dealt with in Section D of the Code.
Clause 11.3	Kamal Wakidee	How does a broadcaster know what person perceives? How does the broadcaster determine what perceptions are made by the listener? Is this the responsibility of the broadcaster?		The duty of broadcasters is to ensure that exercise of their editorial control is not fettered by advertisers or sponsors. The Authority is responsible for reviewing the particular material broadcast and determining whether the nature of the broadcast is such that it creates a perception of inappropriate influence
Guideline to Rule 11.4	Dr. Michael Lines	TTBS Standards banned tobacco ads on TV and is responsible for monitoring ads for pesticides electrical and measuring equipment. TTBS also monitors ads e.g paints ( ISO 9000) and environment (ISO 14000). TATT does not have the expertise to monitor this.	Insert “Pay attention to the requirements of the Food and Drugs Act, Pesticides and Toxic Chemicals Act, Standards Act, Metrology Act and Regulations made thereunder and rulings of	Noted. Broadcasters also have an obligation to comply with the existing law as it relates to advertising or any other issue.

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			the relevant authorities on certain classes of products”.	
Guidelines to Rule 11.4	One Caribbean Media Limited	We reject this position in toto as it is tantamount to ‘shooting the messenger’. First, the Authority needs to address advertisers and advertising standards separately and directly, perhaps through a separate code directed to them. (Note that where broadcasters have their own in-house editorial codes, these can and do speak to advertising integrity). Second, it is wholly impractical for a broadcaster to monitor and substantiate advertising material submitted for broadcast; the cost of attempting to do this would be so onerous that it would effectively cripple the industry. The Authority’s position does not at all make clear what is involved in ‘substantiation’, but in the accepted meaning of that term, the broadcaster (and presumably each broadcaster individually) will have to assemble irrefutable scientific evidence on the validity of a ‘health cure’ or investigate the accreditation of some educational institution advertising its services. We cannot accept this position in any shape or form.		The duty of broadcasters is to ensure the availability of scientific data to substantiate claims made with respect to health cures. The document has been revised for greater clarity.
Guideline to rule 11.4	Dianne Antoine	How realistic is this? Sometimes people advertise and make false claims. We need to be more stringent with this guideline against infomercials trying to sell a product not endorsed by the FDA.		The duty of broadcasters is to ensure the availability of scientific data to substantiate claims made with respect to health cures. The document has been revised accordingly.
“11.5 Any advertisement which purports to offer	TTPBA	If I am offering a course on how to dress professionally does that course have to be accredited and do I have to be recognised or registered?		The course provider will be required to comply with the requirements for accreditation under the law.

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educational courses must include a statement stating whether the courses have been duly accredited or not and whether the institution has been recognised or registered by the relevant authorities.”				Broadcasters have a duty to indicate whether or not the particular course is accredited.
Rule 11.6 There shall be no advertising of alcohol and tobacco before the watershed or during children's programmes.”	TTPBA	We object to this clause.		The Authority is of the view that the Rule is non-objectionable and consistent with the existing law with respect to the sale of these products to children.
Clause 11.16	Margaret Doman	This section speaks about drug and alcohol but not about sexual enhancement products? How will this be treated?		Any advertising content that is inappropriate for children must not be broadcast outside the watershed period. . The document has been revised accordingly.
Rule 11.4	Indo-Trinbago Equality Council	Not the role of the broadcaster to verify advertising		The duty of broadcasters is to ensure the availability of scientific data to substantiate claims made with respect to health cures. The document has been revised accordingly to clarify this Rule.
Rule 11.7 Advertising	TSTT	Guideline not helpful and may be stricter than Rule itself.	Amend Guideline so that	

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and Sponsorship			it falls in line with the Rule itself. Include guidance on how broadcaster can demonstrate reasonable steps were taken.	The document has been revised accordingly.
Rule 11.8	TSTT	Principle applies to Advertising but Rule includes programming.	Amend Rule	The document has been revised accordingly.
Rule 11.8 Advertising and Sponsorship	Royston Boodoo	How will TATT detect “subliminal technique?”	Need to review Rules in light of whether TATT can actually enforce them.	The document has been revised accordingly.
“11.8 Broadcasters shall take all reasonable steps to avoid broadcasting any advertising material or programme that makes use of any subliminal technique or device.”	TTPBA	Would the broadcaster always know whether a subliminal technique has been used in an advertisement or programme?		The document has been revised accordingly.
Guidelines to Clause 11 Advertising	Marina Maxwell	Too much overwhelming foreign selling.		The Code does not regulate advertising of foreign products and services
<b>RULE 12 - RELIGION</b>				
Rule 12. <u>Religion</u>  Objective: To ensure that programmes do not involve any abusive treatment of the	TTPBA	The Constitution in s4 (h) provides for freedom of conscience and religious belief and observance.  No concessionaire would be able to operate outside of existing laws including the Constitution. There should be nothing preventing a concessionaire from broadcasting	Delete Rule and Objective	Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of different religions and religious denominations.

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religious views and beliefs of those belonging to a particular religion or religious denomination; and that there is no exploitation of any susceptibilities of the audience for such programmes.		material which may impact on a particular belief as long as the broadcast of such material is not contrary to any law.		
	Ms. Dowell	Who measures if a religious statement made on radio is offensive? What qualifications does this person have?		The Code prohibits abusive treatment of the religious views and beliefs of persons belonging to a particular religion. The Authority determines whether a statement or content is in breach of this Rule having regard to the circumstances at the time of the broadcast.
Rule 12 Religion	Family Focus Broadcasting Network		Adopt approach of USA and Canada. "Recognizing the purpose of religious broadcast to be that of promoting the spiritual harmony and understanding of humanity and of administering broadly to the varied religious needs of the community it shall be the	The document has been revised.

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			responsibility of every broadcaster to ensure that religious broadcasts, which reach persons of all creeds and races simultaneously, shall not be used to "convey attacks upon another race or religion".	
Rule 12.1	Susan Peters  Heidi Hannibal	We should be free to criticize other religions. It is my constitutional right to preach Christianity.  What is "reasonable judgement"?	Revise this term .The editor should not have the right to determine what is "reasonable".	Reasonable criticism is permitted by the Code.  The document has been revised for greater clarity.
Rule 12.1	Ricardo Charles	Does the Code disallow a minister of religion from making reference to the homosexuality, quotes directly from Scriptures stating "that they are destined to go to hell"?		Clause 12 of the Code protects against the abusive treatment of the religious views and beliefs of persons belonging to another religion. Clause 2 protects against abusive or discriminatory comment against persons based on their sexual orientation, that is unjustified in accordance with the Code.
Rule 12.1	Ricardo Charles	While there is need for a Code given the state of the society, it is important that the liberty gained over time is not eroded.  The Code is trying to regulate how I express my religion.		Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of

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	Brother Wes	People have the right to criticize other religions. What determines whether or not my statements are abusive?		different religions and religious denominations.
Rue 12.1	Shannon Bartholomew	The term “abusive treatment” is usually used in human relations. What if the right of reply referred to in clause 12.3 in turn offends the original offender? The procedure is impractical and contradictory.	TATT needs to be more cautious and monitor this issue more carefully, especially with respect to talk radio.	The Rule when read together with the Guideline provides sufficient clarity. Only the Rule is binding.  The document has been revised to delete reference to Right of Reply.
Guideline to Rule 12.1 Religion	Shannon Bartholomew	The use of “balance” in the treatment of religious programming is not very clear.	Need to clarify.	Only the Rule is binding. However, the document has been revised to provide greater clarity.
Clause 12. 2	Kamal Wakidee	If someone comes out to say there is no God, am as a Christian not to say anything?		The Clause applies to statements made in programmes that are broadcast.
Rule 12.2	Lawrence Peters  Susan Peters	Define “abusive treatment”  Define “reasonable judgement”  You are giving other religions the opportunity to call in and say they are offended.		This term is defined in Section 3A. of the Code Interpretation of Terms.  The document has been revised accordingly to remove reference to Right of Reply.
12.3 Broadcasters shall ensure that religious programmes are not used to attack <b>another race</b> or religion. However, if a religious programme includes reasonable criticism of	TTPBA  Family Focus Broadcasting Network  Nelson Sammy Advanced Community	There is concern about having to give an opportunity for right of reply every time a criticism of another religion is offered		The document has been revised accordingly.

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another race or religion, an opportunity must be given for a right of reply in the same time slot allotted for that programme.”	Television TSTT	Indicate how a broadcaster can adequately comply with Right of Reply.		
Rule 12.3 Religion	Indo-Trinbago Equality Council TSTT	“Reasonable criticism” not defined.	Clarify “reasonable criticism”.	The document has been revised accordingly to provide clarity.
Rule 12.3	One Caribbean Media Limited TTPBA	Race is inadvertently included in this clause on Religion although Race and Religion have been separated elsewhere.	The reference to ‘race’ in this clause should be removed	“Race” is not included in this Rule.
Rule 12.4	Heidi Hannibal	The identity of the religion should not be revealed because it may offend persons of that religion.		The Authority does not agree with this proposal.
Rule 12.4	Family Focus Broadcasting Network	This requirement is a subtle attack on freedom of speech. How does one know that a specific religion is discussed if the name is not identified?		Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of different religions and religious denominations.
Rule 12.5	Nelson Sammy	It seems that religious broadcasters will have their rights curtailed as provided for under the Constitution. All religious programmes are designed to influence the audience.		The Code prohibits abusive treatment of the beliefs of persons belonging to a particular religion or denomination..
Rule 12.5	Family Focus Broadcasting Network	“Stealth” is not defined. What about right of privacy of sponsors?  The question of “scientific” support for “specific religious belief” holds very weak grounds.	Amend	The Authority does not agree with this proposal. The objective of this Clause to ensure that the editorial judgement of broadcasters is not fettered by sponsors and advertisers.

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Rule 12.5	Patricia O'Brien	What is meant by "stealth"?	Clarify.	The document has been revised to clarify this term.
12.5	Brent Williams	What does this mean?		The Rule when read together with the Guideline is sufficiently clear. This clause prevents misinformation so that scientific opinion cannot be deemed as a religious opinion.
Rule 12.5	TSTT	Guideline to this Rule does not provide much guidance	Delete words after "stealth" in Rule. Include as part of Guideline.	The document has been revised accordingly.
Rule 12.3  Rule 12.6	Lawrence Peters  Susan Peters	This is a breach of a person's constitutional right to free speech. There is a need to criticize another person's religion to inform them they are going down the wrong path. Persons who disagree should not be allowed to use my programme time to preach their message.  What is meant by "attack another religion"? Religious bodies should be allowed to write the Code.	Delete "proselytize" and "improperly exploit"  No law should prohibit criticism of another religion, especially where there are penalties.	The Authority does not agree. Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of different religions and religious denominations. The document has been revised to remove the Right of Reply.
12.6 Religious programmes must not improperly exploit any susceptibilities of the audience."	TTPBA	Don't all religious programmes do this?		The document has been revised accordingly.
Rule 12.6	Family Focus Broadcasting Network	No definition of "susceptibilities of the audience". Who will determine improper exploitation"?	Define	The document has been revised to provide clarity. The Authority will determine whether there is a breach of this Rule having regard to the circumstances.

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Rule 12.6 Religion	Consumer Affairs Officer	"Susceptibilities" is vague.	The term needs to be defined.	The document has been revised accordingly.
Rule 12.6	Nelson Sammy	People have fears; for personal security, of death etc. Broadcasters can offer hope.	Delete "susceptibilities"	The document has been revised accordingly.
Guideline to Rule 12.6	Lawrence Peters	The restriction that "religious programmes must not proselytize infringes a person's right to convert persons to their religion	Amend	The document has been revised to remove reference to "proselytize.
Guideline to rule 12.6	Mr. Wadilee	For persons to promote their religion they must make comments.  Address the issue of people with certain susceptibilities and "proselytize"		The Guidelines are not Rules and are therefore not binding.. General preaching that does not constitute "abusive treatment" of the religious views and beliefs of other persons does not contravene this Rule..  The document has been revised to remove reference to "proselytize". This clause prevents misinformation so that scientific opinion cannot be deemed as a religious opinion
Rule 12.7	TSTT	Rule and Guideline the same. To treat religious programmes with due objectivity is unrealistic since religious programmes are subjective by nature. Children should be allowed the experience if the broadcaster states that claims are unsubstantiated.	Amend accordingly.	The document has been revised accordingly.
General	Dr. Michael Lines	I have a concern about the treatment of violence, religion, health and safety on many TV channels.		These matters are addressed in the Code.
General		Woman and child bashing is rampant.		Clause 2 Harm and Offence has been revised to address abusive or discriminatory material based on (socio-economic status, gender etc.).

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Rule 12.7 Religion  Clause 12.7	Khadine Daisley  Patricia O'Brien  Nelson Sammy  Mr. Wadilee	A Minister of religion expressed the view that when the Code comes into effect, mention of Jesus' name will not be allowed on air.  God is living in everybody and He gives people the power to do things.  Some persons believe in the living person of Jesus Christ. Some also make claims with respect to powers of a living person.  Every Sunday morning there are miracles being performed on persons? Is this to be no longer shown on TV	Revise definition of "living".  Review	The Code does not prevent persons from preaching their beliefs. It seeks to disallow abusive treatment of the beliefs of other persons.    The document has been revised accordingly.
Rule 12 Religion	Mr Wadilee	What of freedoms? Spirituality vs. Religiosity? New Age material so far seems banned.		The Authority does not agree. Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of different religions and religious denominations.  Whether material amounts to abusive treatment will be determined by the Authority having regard to the circumstances at the time the material is broadcast.
Rule 12 Religion	Thusian Institute	The Code's restrictions on religious preaching effectively outlaws religious criticism a form of critical speech protected under the Constitution of T&T.		The Authority does not agree. The Code does not prevent persons from preaching their beliefs. It seeks to disallow abusive treatment of the

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				beliefs of other persons.
	Thusian Institute	<p>Clause in the Code undermines Christian preaching and incapable of fulfilling Jesus' examples. The Code is anti-Christian.</p> <p>Christians cannot criticize in a way that contains comments on sodomy; cannot give "life-changing advice" to the public if they cast out demons from people; cannot criticize false religious doctrine;</p>	Christians cannot criticize in a way that contains comments on sodomy; cannot give "life-changing advice" to the public if they cast out demons from people; cannot criticize false religious doctrine;	<p>The Authority does not agree.</p> <p>The objective of this Rule in seeking to disallow abusive treatment of the beliefs of other persons is justifiable. The Code does not prevent persons from preaching their religious beliefs.</p>
Rule 12 Religion	Shannon Bartholomew	<p>The guideline to rule 12.2 – The justification here amounts to the reasonable criticism referred to in clause 12.3</p> <p>If religious expression is curtailed by the Code it would affect our republican status.</p> <p>Who are the framers of the Code?</p> <p>Guideline to rule 12.6 – Why is the word proselytize used? It isn't defined.</p>		<p>The Authority does not agree.</p> <p>Freedom of religious belief and observance can only be sustained if there is respect for and tolerance of different religions and religious denominations.</p> <p>The document has been revised to delete reference to the term "proselytize".</p>
Rule 12.3	Shannon Bartholomew	Reasonable criticism is effectively discouraged. Protestantism borne out of criticizing the teachings and practices of the Catholic Church, becomes a banned religion in the Code.	Review drafting.	<p>The Authority does not agree.</p> <p>The objective of this Clause in seeking to disallow abusive treatment of the beliefs of other persons is justifiable. The Code</p>

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				does not prevent persons from preaching their religious beliefs.
Rule 12.3	Billy Isaac	Some more clarification needed on the term “abusive treatment”. Who must be offended and to what degree before a complaint can be made?		The term abusive treatment is defined in Section 3A of the Code Interpretation of Terms and further clarified in the Guidelines.
Rule 12.4	Thusian Institute	Christians must be allowed to identify the religion he is speaking about without offending the Code.  This is one way of censoring religious criticism		The Code allows persons to identify the religion which is the subject of a religious programme or under discussion provided that statements are not otherwise in breach of the Code.
Guidelines to Clause 12.4	Dr. Michael Lines	What of the atheistic/agnostic?		Rule 12.2 protects against abusive treatment of the views of persons who follow no religious doctrine.
Rule 12.5	Thusian Institute	Christians who seek to overcome prejudice by “promoting religious views or beliefs by stealth” cannot conceal their religious views to reveal it later in the program. They must reveal it upfront jeopardizing their cautious programming.		Noted.
Guidelines to Rule 12.6	Thusian Institute	Christians cannot preach to convert a person from another religion to his own (proselytize). They are banned from fulfilling Jesus’ commission to convert all nations.		The Guidelines have been revised accordingly.
Rule 12.6	Thusian Institute	Christians cannot influence the audience by “preying on their fears and susceptibilities”. This prevents them from seeking to convert people by preaching about earthquakes, natural disasters, hell fires and end of the world for such preaching causes fear in some people.		The Guidelines have been revised accordingly.
Rule 12.7	Family Focus Broadcasting Network	Need to clarify “due objectivity”	Amend	The Authority considers the definition appropriate at this time.

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<p>12.7 Religious programmes that contain claims that a living person or group has special powers or abilities, must treat such claims with due objectivity and must not broadcast such claims when significant numbers of children may be expected to be watching (in the case of television), or when children are likely to be listening (in the case of radio).</p>	<p>TTPBA  Thusian Institute</p>	<p>Does this mean that programmes showing Benny Hinn healing someone cannot be broadcast before the watershed? Or a radio talk show about someone being healed?</p> <p>“Only claims made by living human beings should be substantiated with scientific evidence”.</p>	<p>Amend Rule to exclude reference to God.</p>	<p>The Authority cannot provide responses to particular situations in this document, The response would vary depending upon the particular circumstances in which the broadcast was made.</p> <p>The Authority does not agree with this proposal. However, the Guidelines have been revised to clarify that this Rule does not refer to God or any other deity.</p>
<p>Rule 12 Religion</p>	<p>TTPBA</p>	<p><u>Additional Comment on Race and Religion:</u></p> <p>One must be able to prove that the offence was intentional and calculated to promote hatred on the basis of race or religion. This will get us past the problem of people finding offence in everything. Example, if someone were to continually denigrate a particular person on a daily basis, then it may be possible to prove intent.</p> <p>If one does not have to prove intent to promote hatred on the basis of race or religion then a broadcaster may be in Court every Monday morning, with the resulting effect that he would rather not deal with the topic at all, thereby limiting</p>	<p>Insert the following words:          “The TTPBA is of the view that religion is too important in the lives of too many people to be left unexamined. And like any other body of ideas there is no reason why ideas should not be criticised. We agree that programming, the intent of which is to stir up hatred, and that is threatening,</p>	<p>The Authority does not agree that the offence must be intentional. Broadcasters have a responsibility to ensure that they do not broadcast any material that has the potential to stir up hatred and therefore should avoid unduly discriminatory broadcasts, or use of derogatory terms.</p>

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		<p>freedom of speech.</p> <p>We therefore suggest that a safeguard of this nature be included under the clauses that deal with race and religion.</p> <p>In our comments on the last draft code, the safeguard we recommended:</p>	<p>must not be allowed, and the code should be carefully worded to make this distinction very clear.”</p>	
<b>SECTION D – ENFORCEMENT AND COMPLIANCE</b>				
Section D Enforcement and Compliance 4 <sup>th</sup> Breach	Stanley Temprow	The Authority shall publish on its website and in no less than one daily newspaper with enjoying major circulation in Trinidad and Tobago, a notice containing details of the breach and the sanctions applied.	Insert “enjoying major”	The Authority does not agree. This suggestion is not workable, the issue of determining “major circulation” would be unduly burdensome.
D1. Compliance and Enforcement (Page 29-30)  “1.3 ... The failure by a concessionaire to comply with the provisions of the Code may therefore be a material breach of the terms and conditions of a concession which: (I) is an offence pursuant to section... punishable on summary	TTPBA	We find this very harsh.		The Sanctions contained in the Code are based on the provisions in the Act. It would be incumbent upon the Magistrate to apply consistent with the breach committed.

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conviction by a fine of \$250,000 and imprisonment for up to five years”				
ii. is grounds for the termination or suspension of the concession by the Minister, acting on the recommendation of the Authority”	TTPBA	The concern here is that there is no clear process for adjudicating breaches of the code. Would there be an arbitration panel and if so, whom would it comprise? It cannot be the Minister and TATT deciding if there are grounds for termination.		The Authority does not agree. The decision to prosecute for a breach or to recommend suspension or termination is, by virtue of the Act, within the Authority's jurisdiction. The Authority has however amended the document to provide a more detailed decision-making process.
Section D Enforcement and Compliance	Indo-Trinbago Equality Council	No mention of right of appeal against a decision or right of representation		Any prosecution is conducted in the Magistrate's Court and therefore appeals are available in accordance with the Court's processes. In relation to a recommendation to suspend or terminate a concession, the final decision is made by the Minister and is amenable to judicial review. The Authority has amended

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				the language to provide for legal representation.
2. Complaints about Broadcasting Content (Page 31)  "2.2 A person making a complaint is not required to provide their name or address..."	TTPBA	Why should the Authority entertain anonymous complaints?		The proposal is to ensure that persons are not discouraged from highlighting breaches by broadcasters. However, in respect of an anonymous complaint, the Authority will have a greater responsibility to investigate the circumstances fully. The final decision and action are based on the Authority's investigations, not the complaint.
General	One Caribbean Media Limited		The Authority needs to disclose statistical and factual details of complaints over the last five years. It also needs to disclose its staffing resources (qualifications, editorial experience) who will be involved in complaints handling and adjudication.	The Authority does not agree that editorial experience is required or appropriate for its staff engaged in the investigation and determination of breaches.
General	One Caribbean Media Limited	We need to be clear that the Authority has within its own internal complaints handling and adjudication process persons with the requisite editorial experience and judgment themselves, people who understand how newsrooms operate, who appreciate the tensions faced by broadcasters daily, who appreciate that mistakes will be made from time	We suggest that the Authority incorporate the Media Complaints Council into its process for the handling of complaints and also that	The Authority will engage appropriately qualified staff to consider complaints. However, the particular issues mentioned are appropriate for representation by broadcasters in the event that a

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		to time, and who are sensitive to the rights of the media, the public interest and the competing rights of aggrieved individuals and organisations.	the Authority embrace the 'co-regulation' model since the current staffing of the Authority does not have the capability to the extent required for the effective implementation of the Code.	<p>complaint is being considered.</p> <p>In relation to co-regulation the Authority is not opposed to the sector regulating itself in a manner which would result in less complaints being addressed through the procedures in the Code.</p> <p>It is arguable that including the Media Complaints Council in the Authority's decision making process would compromise the Authority's independence. It would also compromise the public trust that decisions are independent of the broadcasters, who are the persons against whom complaints are made.</p>
General	One Caribbean Media Limited		The Authority needs to disclose the number and nature of complaints that it and/or the Media Complaints Committee has received since the promulgation of the Telecommunications Act in 2001 relating to matters of Content, Privacy, and Fairness, how many of those complaints might have been viewed as	<p>The Authority has no jurisdiction over the Media Complaints Council and therefore cannot provide details of complaints received by the Council.</p> <p>The Authority received [ ] complaints in 2007.</p>

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			serious, and how these were resolved.	
“2.3 Where the complaint is in relation to the failure by the broadcaster to give a Right of Reply in an appropriate circumstance as set out in Clause 9, the Executive Director shall, without prejudice to the Authority’s consideration of the complaint and determination of any breach of the code, where he considers that a Right of Reply should properly have been given by the broadcaster, direct that the broadcaster give the complainant a Right of Reply at such time and in such manner as he may reasonably determine.”	TTPBA	Having gone through the process as outlined in Clause 9, if a broadcaster determines that he need not give a right of reply and have given the complainant reasons why in written form, the complainant then goes to the Authority, the <u>Executive Director</u> will then determine if a Right of Reply should be given?		The language has been revised. The Right of Reply has been replaced by a correction procedure.
Section D. Compliance and Enforcement; 2.3	One Caribbean Media Limited	This is arbitrary. It is not at all clear under what circumstances, prior to a full assessment or determination of	The Authority needs to be able to demonstrate the	The Authority does not agree. Waiting for a full assessment would

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Right of Reply		the case in accordance with proper procedures that the executive director of the Authority should be able to direct the broadcaster to give the complainant the right of reply.	circumstances under which this provision makes sense.	substantially prejudice the value of the remedy to the complainant.
Section D Enforcement and Compliance Dispute Resolution	TSTT	Broadcaster must have opportunity to seek review of decision of TATT.  There is no provision for ADR	Broadcaster should be allowed to make representations before finding of a breach is made. Details of process to be established.	Any prosecution is conducted in the Magistrate's Court and therefore appeals are available in accordance with the Court's processes. In relation to a recommendation to suspend or terminate a concession, the final decision is made by the Minister and is subject to judicial review. The Authority has amended the language to provide for legal representation.
Section D Enforcement and Compliance Clause 3	Columbus Communications	Unclear whether Authority will implement monitoring system.	Monitoring by TATT should be mandatory. Limit period for recordings to be kept	The Authority will monitor as appropriate, having regard to the cost and benefit of such monitoring.
"3.1 The Authority may implement a system of monitoring content broadcast in order to determine compliance by broadcasters, independently of the receipt and handling of complaints."	TTPBA	Why should the Authority have the right to monitor broadcasters' content outside of complaints received?		The Authority has a responsibility to enforce all provisions in the Act. Monitoring is necessary for effective implementation.
5. Sanctions for Breach of the Code (Page 31-	TTPBA	There are no provisions in the document that allow for appeals to be made by the broadcaster.		Any prosecution is conducted in the Magistrate's Court and therefore

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33		<p>There is no provision for an arbitration panel and details of who will comprise such a panel. Is this included in the Telecommunications Act?</p> <p>Definition of terms</p> <p>Judgments – who will adjudicate? Is it a committee or just a person? Is it TATT or an independent panel? Can the Authority suspend a broadcaster's licence while the matter is before the Courts?</p> <p>Will the Guidelines form part of the legal document? We think it should as they guide how the rules should be interpreted.</p>		<p>appeals are available in accordance with the Court's processes. In relation to a recommendation to suspend or terminate a concession, the final decision is made by the Minister and is subject to judicial review. The Authority has amended the language to provide for legal representation.</p> <p>Section 30 of the Act provides the process for suspension of licences.</p> <p>The Guidelines will be a separate document published and maintained by the Authority in order to ensure that they can be revised when necessary. Any revision of the Guidelines will incorporate consultation by the Authority.</p>
Section D. Compliance and Enforcement; 5 Sanctions for Breach of Code	One Caribbean Media Limited	It is unfortunate that the Draft Code adverts to these penalties which in the Telecommunications Act relate to a raft of breaches outlined under Section 65 (a) to (g). The fact is that none of the matters which a Broadcast Code addresses in respect of Content, Standards, Fairness and Privacy rise to the level where a term of imprisonment can or should be applied.	The process by which sanctions of any severity, but especially sanctions which rise to the level of suspension or revocation, are dealt with must be clearly spelt out and must permit some review and consideration by an independent body or tribunal before it reaches	Any penalty set out in the Code must be within the ambit of the Act. To do otherwise would be <i>ultra vires</i> . It should be noted however that the penalties would be imposed by a Magistrate and that the most serious penalties would therefore be imposed only for the most serious breaches in accordance with the principles under which the Courts operate.

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			the desk of a political appointee in the person of the Minister.	The Authority is an independent body.
Section D Enforcement and Compliance	Royston Boodoo	Who is liable for a breach of the Code?		The broadcaster would be liable for any breach. The broadcaster is the person to whom the concession for broadcasting services has been granted.
	Kamal Wakidee	The code makes reference to a reasonable person when evaluating a breach; who are the reasonable persons within the Authority to make this determination? What are their qualifications?		The definition of reasonable person is in the document. The persons involved with the determination have qualifications in various areas.
Section D. Compliance and Enforcement; 5 Sanctions for Breach of Code	One Caribbean Media Limited		We would recommend that the reference to the imposition of term of imprisonment be excised from the Draft Code and that the Code makes clear that the sanctions for breach will culminate in the levying of civil money penalties or suspension or revocation of the broadcaster's licence for the most serious, deliberate, repeated and reckless breaches of the Code. (See OCM comments for suggested 7-	The Authority does not agree. While the imposition of a term of imprisonment would be highly unlikely, the Authority cannot limit the power of a magistrate to impose any penalty as he considers appropriate under Section 65.

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			step complaints handling process)	
Section D Compliance and Enforcemnt	One Caribbean Media Limited	The Draft Code (Section D) talks about 'compliance' and 'non-compliance' which might lead to 'material breach', and later on about giving "directions to the concessionaires to compel compliance". The choice of language here reflects the implicit, perhaps unwitting posture of the Authority, which we think is unfortunate and inappropriate		<p>The comment is misleading. The language does not reflect any "posture" at all. The language is a function of accuracy and the terminology contained in the Act.</p> <p>A person either complies or does not comply with a rule, hence the reference to compliance and non-compliance.</p> <p>"The term material breach is derived from section 30 of the Act which addresses the circumstances in which sanctions can be applied for a breach (i.e. the breach must be a material breach of concession).</p> <p>Condition A3 of the concessions granted to broadcasters gives the Authority the right to make directions to any concessionaire where it is necessary to implement and enforce the provisions of the Act.</p>
Section D Compliance and Enforcemnt	One Caribbean Media Limited	In gearing up its capacity to deal with the implementation of the Code therefore, the Authority should be minded to assess on an ongoing basis post-implementation, the		The Authority must assess the seriousness or frivolousness of all complaints in implementing the

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		seriousness or frivolousness of the complaints levied against broadcasters.		Code. The Authority has found that in the past that there have been a number of legitimate complaints arising out of the provision of broadcasting services in Trinidad and Tobago.
Section D Compliance and Enforcemnt  Paragraph 5.2	Rawle Harvey	The meaning is unclear. It seems to suggest that a broadcaster can breach up to six times before his concession is terminated	Replace “1st breach” 2nd breach” with “Level 1”, “Level 2” breach	The Authority does not agree with the proposal. The correct reference is to the number of breaches, not their seriousness.