



A Consultative Document

A National Broadcasting Code for the Republic of Trinidad and Tobago

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**BROADCASTING CODE CONSULTATION
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: broadcasters have a right to freedom of expression, and individuals have a right to receive information. Yet, individuals have rights to, for example 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

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national security, the prevention of crime, and the maintenance of ethical and cultural standards.

B. OBJECTIVES

The objectives outlined in the Code are:

- To ensure that children and young persons 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 television or radio 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 so that members of the public are not confused, to ensure that advertising pressures do not compromise the

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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 TV broadcasters.

The Code speaks to:

- 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 and 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 and young persons
- Harm, abuse and discrimination
- Crime
- Race

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- 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 TV 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 TV.

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.

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.

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D. CONSULTATION PROCESS

On 18th 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 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.

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.

The Authority published a “*Consultative Document on the Broadcasting Code*” with the revised document 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 5 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

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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 this consultation process are set out in the Decisions on Recommendations (DOR) Matrix contained in the Annex 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 Authority noted that 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.

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 has revised the document, taking into account the comments received where appropriate, as set out in the Decisions on

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Recommendations Matrix. The Authority has 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 is consistent with the Constitution of the Republic of Trinidad and Tobago. The revised document, based on that advice, is believed by the Authority to be entirely consistent with sections 4 and 5 of the Constitution and does not trigger the requirements of section 13 of the Constitution.

The Authority is now seeking the further views and opinions of interested parties regarding the proposals made in this revised consultative document in accordance with the Authority's *Procedures for Consultation in the Telecommunications Sector of Trinidad and Tobago*. The public is invited to comment, in writing, on the revised document. Comments should be addressed to the Telecommunications Authority of Trinidad and Tobago, sent by mail, fax, email or hand delivery to:

**Comments on a Draft Broadcasting Code
Telecommunications Authority of Trinidad and Tobago
#5, Eighth Avenue Extension
Off Twelfth Street
Barataria
TRINIDAD AND TOBAGO
Fax: (868) 674 1055
Email: legal@tatt.org.tt**

The deadline for receipt of comments on the “Consultative Document on a Broadcasting Code – Second Draft” is Friday 23 January 2009.

2 HOW TO USE THE CODE AND GUIDELINES

The draft of the Code is set out in Section 3 of this consultative document. The Code identifies Objectives and Rules. The Objectives represent the desired result of the regulations, 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.

Enforcement and Compliance: The Code sets out the procedure for making complaint to the Authority, and also the procedures and principles through which the Authority will implement and enforce the Code, including a system for graduated sanctions.

A separate document entitled **Broadcasting Code Guidelines (“the Guidelines”)** is contained in Section 4 of this consultative document. 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.

3 THE NATIONAL BROADCASTING CODE

THE TELECOMMUNICATIONS ACT (ACT NO: 4 OF 2001)

NATIONAL BROADCASTING CODE

Made by the Minister under section 79 of the Telecommunications Act

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:

The “**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.

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

“**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.

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

“**Children**” refers to persons under the age of fourteen (14) years.

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“Children’s programme” refers to a programme that is intended for audiences under the age of fourteen (14).

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

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“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 in respect of their health, finances, employment, or personal relationships.

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

“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).

“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 lobby group and is campaigning on the subject; or they may be the “authored” view of a journalist, commentator, or academic with professional

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expertise or a specialisation in an area which enables them to express opinions which are not necessarily mainstream.

“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 simulate erotic rather than aesthetic or emotional 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 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.

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

“Watershed” The watershed is the period before 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.

“Young persons” refers to persons over the age of thirteen (13) years but under the age of eighteen (18) years.

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 provision who provides subscription broadcasting 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 and young persons.

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 on 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

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

C. RULES

1 Protecting children and young persons

Objective: To ensure that children and young persons 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 and young persons 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.

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Violence

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

1.7 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 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 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

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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”).

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 broadcasting

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

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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, age, sex, 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).

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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.

2.6 If television broadcasters broadcast violent or graphic images, an appropriate warning shall be given before such images are put on screen in accordance with Rule 10.

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 broadcasting

2.10 Rule 2.6 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 likely to encourage or incite the commission of crime or to lead to disorder shall not be broadcast.

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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.

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 racial matters, 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 they have adequate evidence to support the accuracy of news.

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

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.

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.

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

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 which carry news or current affairs features 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.

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.

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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 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.

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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

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.

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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.

iv. 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.

v. 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.

vi. 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.

vii. 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.

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. 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".)

ix. 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.

x. 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.

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xi. 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.

xii. Information which is already legitimately in the public domain is not subject to Rule 8.1.

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 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.

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- 10.2 The fact that a programme is sponsored shall be clearly indicated by the broadcaster.
- 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.
- 10.4 Any advertisement which offer 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 purports to offer educational courses provided in Trinidad and Tobago (including courses provided via 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.
- 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 which apply to programming shall apply to all advertisements and sponsorships.

Application to subscription broadcasting

- 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

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

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 attack 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 by concealing the religious views of the makers, sponsors or hosts of the programme or by 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

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of a query from a member of the public or from the Authority, the sources to confirm any such claim.

D. COMPLIANCE AND ENFORCEMENT

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 the determining the appropriate sanction to be sought 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:

- a. both serious and deliberate or reckless (egregious);

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- 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 of sanctions will be applied 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 on 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 writing, may do so 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.

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3 Monitoring and Investigation by the Authority

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 Possible Breaches

4.1 The Authority shall, where it receives a complaint or discovers through its monitoring activities any possible or alleged 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 an alleged 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 alleged 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.

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h. An outline of the process for consideration of alleged breaches.

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

- a. Where the alleged breach is one to which sanctions under any of tiers 1, 2 or 3 of section 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 alleged 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 alleged 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 Sanctions for Breach of the Code

5.1 As stated above, 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

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punitive sanctions. It also ensures that the sanction applied in any instance is fair and proportionate to the breach.

5.2 The following system of 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 sanctions are appropriate. The sanctions increase in severity, from the 1st to the 6th breach, according to the number of offences taking place within the previous twelve-month period, on a rising punitive scale, subject to the caveats set out in sections 5.4 through 5.9.

1st Breach: 1st 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 **1st Warning**.

2nd Breach: 2nd 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 **2nd Warning**. The Authority shall also publish the notice on its website.

3rd Breach: Public Sanction

1. 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 Sanction**;
2. The Authority shall publish the notification on its website; and,
3. The broadcaster shall be directed by the Authority to broadcast a notice of the Authority 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.

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Where this sanction 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 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.

4th Breach: Programme/Concession Suspension

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.

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.

5th Breach: Suspension

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.

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.

6th 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 sanctions 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.

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5.4 In addition and without prejudice to 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.

5.5 For particularly serious breaches, the Authority may apply sanctions which are more punitive than the sanction that would be applied in accordance with 5.2 above. In such case the Authority may seek to apply any sanctions provided for under the Act as it considers appropriate.

5.6 The Authority will treat as a particularly serious breach:

- i. any material breach of rule 1.4, 1.14, 3.1, 3.5 (on which see Section 5.4), 4.2 or 12.1;
- 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, 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.

5.7 In determining the sanction to be applied in the exercise of discretion under section 5.5, the Authority shall have regard to the relative seriousness of the breach and the degree of harm caused or likely to be caused by the breach.

5.8 Where the Authority considers that the sanction provided by 5.2 for a particular breach is unduly severe having regard to all the circumstances of the breach, it may apply

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such lesser sanction as it considers appropriate. In the exercise of this discretion the Authority shall consider:

- i. the seriousness of the breach 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;
- 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.

5.9 Where a concessionaire commits a breach of Rule 3.5, 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 3.5, and the offending broadcaster shall have recourse only to the protections set out in the Act.

5.10 Where the Authority exercises its discretion under section 5.5, 5.8 or 5.9, it shall provide its reasons for so doing together with the notification of breach.

4 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 And Young Persons

The Rules in Clause 2: Harm, Abuse and Discrimination are also intended to protect children and young persons 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

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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 and young persons

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 during which material that is unsuitable for children cannot 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.

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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 television 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 young 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

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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 children, especially younger children and should not put them into positions where they will deliberately be upset. Broadcasters should exercise responsible judgement as adults even where the child's

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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 and young persons, 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

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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.

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

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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.

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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

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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.

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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

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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

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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.

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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 Rule 7.1

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;
 - (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;

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- (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, about 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 7.3

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.

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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.

Guidelines to Practice 7.4

Fairness should also be practiced in honouring 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 7.6

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 Rule 7.7

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 Rule 8.1

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”.

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Guidelines to Practices 8.3 – 8.4

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 8.6

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

Guidelines to Practices 8.10 – 8.12

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

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(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.

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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.

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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.

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

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

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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 11.2

“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 11.4

A religious programme must be identified as such and where a particular religion or religious denomination is the subject of a religious programme, the identity of that religion or denomination must be made clear to the audience.

Guidelines to Rule 11.5

The promotion of religious views or beliefs by stealth is not allowed.

Guidelines to Rule 11.6

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 12.7

Religious programmes must not make claims with respect to powers of any living person or group that cannot be substantiated outside the watershed. 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.

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ANNEX: Decisions on Recommendations

Document Sub-Section	Submission Made By	Comments Received	Recommendations Made	TATT's Decisions
GENERAL				
	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&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>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</p>

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	Lennox Grant	<p>It appears that the Ofcom Code was the only research 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.</p> <p>Large chunks of the Code are taken from the OFCOM Code. What permission was granted by OFCOM?</p>		<p>local circumstances.</p> <p>Permission was sought and obtained from OFCOM.</p>
	One Caribbean Media Limited		<p>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.</p>	<p>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.</p> <p>Changes have been made however to improve the clarity of the document.</p> <p>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.</p>
	Vernon Allick	Not enough time might have been spent on the drawing		The Authority does not agree. The

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Document Sub-Section	Submission Made By	Comments Received	Recommendations Made	TATT's Decisions
		board and it is evident that the draughts persons did not see merit in much else but the Ofcom Code. They have certainly 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).		fact that the draft embodies concepts and principles adopted 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.

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Document Sub-Section	Submission Made By	Comments Received	Recommendations Made	TATT's Decisions
	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 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

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Document Sub-Section	Submission Made By	Comments Received	Recommendations Made	TATT's Decisions
				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 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

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Document Sub-Section	Submission Made By	Comments Received	Recommendations Made	TATT's Decisions
				Broadcaster will now be required to ensure that appropriate training is given to meet the standards set out in the Code.
	Radio Tambrin Mr. Parkerson	How do you create balance in Tobago when the Opposition does not have access?		The Code allows for a diversity of 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		The definition of "reasonable person" is in Section 3A of the Code.

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		qualifications?		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 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 challenge is to ensure (1) that the Code sets	It is internationally accepted that broadcasting media is regulated

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		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.	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 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.	differently from print media because it differs in nature and degree of pervasiveness. The licensing requirement placed on electronic media is indicative of the difference in treatment. 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	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

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			<p>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 programmes. .</p>	<p>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 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	<p>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</p>	<p>It is suggested that the Code be redrafted to set the standards for acceptable conduct within the context of broadcasters</p>	<p>The approach suggested is consistent with the format that will be adopted with the Code.</p>

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		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.	and that the Rules of the Code with the amendments as submitted be used as the standards that must be met by each concessionaire.	
	Anil Goorahoo	TATT should help the media develop their own standards		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.
	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	There are specific provisions of the Code, which are in clear violation of the rights enshrined in the Constitution. Anything therefore, in the proposed broadcasting code that	Each rule with its specific provisions must be tested against s 4 and s 5 of the Constitution to ensure that	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

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	One Caribbean Media Limited	<p>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> <p>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.</p>	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.	<p>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.</p> <p>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.</p>

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	TTPBA	<p>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.</p>	<p>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 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.</p>	<p>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.</p> <p>The Authority appreciates the suggestion and will work with the broadcasting sector to promote a better understanding of the Code.</p> <p>Also, the document has been revised to provide more clarity regarding compliance processes.</p>
	Lennox Grant	<p>The Act requires a Code. The National Policy on Broadcasting states that the Government should develop a Code.</p> <p>New improved document. Seems to signal the end of any initiative on self-regulation. The Media Association is dead.</p>		<p>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.</p>
	Lennox Grant	Was a broadcaster ever denied a licence by TATT?		It should be noted that the Authority

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				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 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.

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	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	<p>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 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>The Code does not address the issue of grant of concessions and licences. The Authorisation Framework has been developed by the Authority 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 –	More fine-tuning needed in the document.	Where appropriate the language used has been made more specific in

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		to ensure that citizens receive a sufficient; well-informed decisions. Who decides the meaning of these words?		the re-draft.
	Dominic Beaubrun TTPBA	Rules are too prescriptive. Some objectives are unconstitutional	Collaborative dialogue that will lead to a sharing of responsibility by broadcasters and Regulator	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. 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.
	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.		The Authority is not empowered or mandated to regulate the print media.

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		Imprisonment is not an appropriate sanction for breach of the Code.		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.
	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		All reasonable steps were taken to

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		advertised.		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 standards code".	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.
	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

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				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: <ul style="list-style-type: none"> - National - Industry (Media Association) - Journalist - Media houses BBC has their own Code and a Style Code Associated Press has its Code of ethics		The Code is national in scope. This does not discount the role of industry self-regulation which can be implemented within the boundaries of permitted content under the Code.
	Tony Fraser	Supports introduction of Code and infrastructure for implementing and supporting Code based on <ul style="list-style-type: none"> - pervasiveness of broadcasting Media - broadcasters have great influence on values, views - Spectrum is limited 		Noted.

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		<ul style="list-style-type: none"> - Influences what people think and/or what people think about - Most of the western world have broadcast regulators and standards in place 		
	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.		<p>The Authority is not empowered or mandated to regulate the print media.</p> <p>The Authority considers that it would be impractical to seek to regulate the Internet.</p>
	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	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

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		this is a source of concern.		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 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	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. The Authority considers it unnecessary, in a code which already gives significant room for editorial judgment, to make such statements.

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			<p>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>Noted. This suggestion will be considered by the Authority.</p>
SECTION A - PURPOSE				
Purpose	Winston Ragbir	<p>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.</p> <p>TATT is only an agent of the Minister and must report to him.</p>	Code not to be implemented in present form.	<p>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 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</p>

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				relationships with the Minister, as set out in the Act. The Authority is an independent statutory body established by Act No. 21 of 2001.
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 the conflicting rights and interests of stakeholders while promoting acceptable standards...”	TTPBA	This conflict also exists for the press but there is no press code. Radio, television and print are merely delivery vehicles and not the product. “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.” So what? What does this mean?		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 print media. 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

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				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.
SECTION B - OBJECTIVES				
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 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

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				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.
SECTION C - OBJECTIVES				
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 should be founded.	Noted. The document has been revised. “To ensure that individuals and organizations participating in or directly affected by programmes 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	Replace Code with an ICT standard comprising objectives	The Code regulates broadcasting content. The Act and various other documents produced by the

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		penalties. Should provide for protection of children, women, handicapped and cultural and religious groups.		Authority regulate the technical and other issue mentioned. Noted. The Code has been amended to provide 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, however, undue offence is addressed by the Code.
Objectives (Page 5)	TTPBA		This should state, "if a broadcaster airs political	The Objective does not indicate the specific obligation of broadcasters

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“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;” ”.			programmes	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 to ensure that advertising does not cause unnecessary	TTPBA	Is giving offence a crime?		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

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harm or offence;"				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.
SECTION D - SCOPE				
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 Television. The Authority considers the Scope as now drafted to be

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				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.
Section 3 B. Scope and	Columbus Communications	Clause 1.5 badly drafted	Amend "Service provider should ensure that proper	The Authority does not agree with the proposed change.

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Applicability Clause 1.5			internal policies and procedures are in place to prevent underage persons from purchasing subscriptions or optional packages and from access to premium content”.	
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.
INTERPRETATION OF TERMS				
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 of 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	The Authority has revised the wording accordingly.

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			following morning".	
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	The Authority does not agree with the proposed change. However, the definition has been revised for greater clarity.

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			of race and ethnicity along the lines of the UK Code 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>
RULE 1 – PROTECTING CHILDREN AND YOUNG PERSONS				
<p>Rule 1 Protecting children and young persons</p> <p>Objective: To ensure that children and young</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</p>	Agrees with Objective as stated	Noted.

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persons are neither harmed nor misled by the transmission of inappropriate and/or inaccurate material.		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 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.

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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 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.

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				It is noted, however, that the proposed limitations would likely constitute an unreasonable limitation on freedom of expression 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	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	Watershed should be from midnight to 5.00 am.	The Authority considers a watershed that starts at midnight to be unreasonably restrictive.

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Watershed		up long after nine and risking their exposure to such material is unjust and irresponsible.		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.
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	Mrs. Quamina	Provide clarification on the term "watershed". Does this		The Code has been amended to

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children	PTA St. Patrick District	apply to radio as well?		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 Code.
Guideline to Rule 1.2	Stanley Tempro	The "watershed" is the period during which material that is unsuitable for children cannot 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 Tempro	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

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				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 clock (preferable) or 7:00 p.m.	The document has been revised accordingly.
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 Tempro	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.

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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 or plot" Delete 1.7 and 1.8.	The code must be consistent with the freedoms granted in the Constitution.
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

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				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 themes	Indo-Trinbago Equality Council	Providing help-lines is the responsibility of Gov't, not the broadcaster.		The Authority does not agree. 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	Insert words in quotes.	The Authority does not agree. Programmes with sexual themes which are educational in nature may still require suitable warnings.

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		approaches will not have a positive effect. Human sexuality is natural and needs to be viewed as such.		
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 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

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				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 censure news.		The Authority does not agree. The clause does not attempt to censor the news.
RULE 2 – HARM AND OFFENCE				
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.

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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 Limited	The phrase 'unduly discriminatory material' which is used twice in this section, leaves the impression that some amount of discriminatory material not rising to the level of 'unduly discriminatory' would be acceptable.	The adjective 'unduly' should be dropped.	'The document has been revised for 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	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.

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orientation, marital status, or physical or mental disability.”				
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 people.		The Code does not regulate Internet broadcast.
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	The Guideline has been revised to provide greater clarity.

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			demonstration is for entertainment purposes.	
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 only.	Noted. The document has been revised.
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.
RULE 3 - CRIME				
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	Delete the words "or to lead to disorder"	The Authority has revised the document to delete the definition of

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		contemplated and included in the Objective and there is no need for repetition.		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.
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?		The proposal constitutes an unjustifiable limitation on the right to freedom of expression and

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		There should be a mechanism to ensure that the media is responsible.		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.
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	To what extent do we declare hostility to another country?		This phrase has been deleted.

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	Reporter			
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				
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	Margaret Doman Family Life	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.

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				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 traits 'unless scientifically proven empirical evidence exists'.	Insert words in quotes.	Noted. The Authority has revised the language.
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

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				is permitted. The language has been revised for greater clarity.
RULE 5 – NEWS AND PUBLIC AFFAIRS				
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 Pt. Fortin Borough Corp.	How does the Code deal with explicit material (violence, murder) broadcast on TV?		The Code deals with it in two ways: 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	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.

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comments or for the purpose of promoting or downplaying either side of any matters of political or industrial controversy.”				
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 breaches” and minor penalties for minor breaches.	If foreign content is re-broadcast in Trinidad and Tobago it must be consistent with the Code. 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		If the error occurred in the lead story on the 7:00 p.m. news		The broadcaster is required to make

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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 this misinformation.”	TTPBA	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 correction so that it reaches the same audience that received the 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 Tempro	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,	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		The Authority does not agree that

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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.”		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.		multiplicity of voices achieves impartiality.
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 Temprow	...” 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.
RULE 6 - ELECTIONS				
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	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

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			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)	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 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.	The Draft Code should make clear that the rules and guidelines in respect of Elections should apply only during a ‘period of election’ which should be defined, and to the type of elections to which the Code will apply.	The Rule when read together with the Guideline makes this clear. The document has been revised to insert the phrase in the Rule.
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.

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<p>Rule 6 Elections</p> <p>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.</p>	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 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	The document has been revised. (See legal advice).

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			develop internal codes or rules governing the reporting of elections.	
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 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 Rule does not require that all allegations should be substantiated but where they are not, the

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		The phrase "If this is not possible or likely to be possible" looks and sounds awkward		broadcaster should so indicate. The document has been revised accordingly
Rule 6.3 Elections	Stanley Tempro	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
RULE 7 - FAIRNESS				
Rule 7 Fairness Objective: To ensure that broadcasters avoid unjust or unfair treatment of individuals or organizations.	TTPBA	<p>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.</p> <p>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 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>	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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		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.		
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 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.

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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.
RULE 8 - PRIVACY				
Rule 8 <u>Privacy</u> Objective: To ensure that broadcasters respect the privacy of individuals in programmes and in connection with obtaining material included in programmes.	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) 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.

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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.
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	Include example of what	The Authority will determine what

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		inadvertently recorded in an investigation where there is no wrongdoing by the broadcaster.	is to occur if one requests live broadcast to be stopped.	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 can be proven to be of a matter of national security or serious crime”.		The Authority does not agree. These issues have been addressed with sufficient clarity, in the Code.
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

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				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.
RULE 9 – RIGHT OF REPLY				
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 affiliated.	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 with the complainant and the Authority in an attempt to resolve the complaint. 9 (B) “ <u>Correction of Inaccuracy</u> ” Objective: Add the words as underlined below after the word “affiliated” as it	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. 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.

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			<p>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>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 Authority 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>
Rule 9 Right of Reply	Indo-Trinbago Equality Council	Insensitive to the practical operations of news rooms and station management		<p>The document has been revised accordingly.</p> <p>Please note that the Right of Reply has been removed in the Code. A</p>

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				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.	<p>The Code regulates broadcasting concessionaires who must ensure that the material broadcast is in compliance with the Code.</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>
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? Not everyone can afford to go to court.		<p>The Authority determines whether the broadcast of the material is in breach of this Rule and whether the individual is entitled to a Right of Reply in the circumstances.</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</p>

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				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 "it might tend to incriminate the Broadcaster" especially if the broadcaster is culpable of an unfair, unjust or illegal act.	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 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

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				circumstances where inaccurate or misleading information is broadcast about a person.
RULE 10 – INFORMATION AND WARNINGS				
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.
RULE 11 – ADVERTISING AND SPONSORSHIP				
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 unnecessary harm or offence.”	The document has been revised.
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		The Code does not seek to prohibit all sexual behaviour. It is the context in which it is shown e.g. in

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		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 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 Advertisements	Tonia Gooding	On certain "children channels", the advertisements for programmes to be aired after the watershed are broadcast. This defeats the purpose.		The Code provides that the same 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

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				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.
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	Insert words in quotation.	The Authority does not agree. The Authority determines whether reporting of news and current affairs is accurate, balanced or objective

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		has been reasonably able to ascertain the accuracy, balance and objectivity of the report”.		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 the relevant authorities on certain classes of products”.	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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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 educational courses must include a	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. Broadcasters have a duty to indicate whether or not the particular course

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statement stating whether the courses have been duly accredited or not and whether the institution has been recognised or registered by the relevant authorities.”				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 and Sponsorship	TSTT	Guideline not helpful and may be stricter than Rule itself.	Amend Guideline so that it falls in line with the	

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			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
RULE 12 - RELIGION				
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	The document has been revised.

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			community it shall be the 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.		Freedom of religious belief and

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	Brother Wes	The Code is trying to regulate how I express my religion. People have the right to criticize other religions. What determines whether or not my statements are abusive?		observance can only be sustained if there is respect for and tolerance of 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 another race or religion.	TTPBA Family Focus Broadcasting Network	There is concern about having to give an opportunity for		The document has been revised accordingly.

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However, if a religious programme includes reasonable criticism of another race or religion, an opportunity must be given for a right of reply in the same time slot allotted for that programme.”	Nelson Sammy Advanced Community Television TSTT	right of reply every time a criticism of another religion is offered 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	“Stealth” is not defined. What about right of privacy of	Amend	The Authority does not agree with

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	Broadcasting Network	sponsors? The question of "scientific" support for "specific religious belief" holds very weak grounds.		this proposal. The objective of this Clause to ensure that the editorial judgement of broadcasters is not fettered by sponsors and advertisers.
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.

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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.
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.

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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.).
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

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				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 beliefs of other persons.
	Thusian Institute	Clause in the Code undermines Christian preaching and incapable of fulfilling Jesus' examples. The Code is anti-Christian. 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;	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;	The Authority does not agree. 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.

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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. 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 does not prevent persons from preaching their religious beliefs.</p>
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	<p>Christians must be allowed to identify the religion he is speaking about without offending the Code.</p> <p>This is one way of censoring religious criticism</p>		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

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				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.
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	TTPBA Thusian Institute	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? “Only claims made by living human beings should be substantiated with scientific evidence”.	Amend Rule to exclude reference to God.	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. The Authority does not agree with this proposal. However, the Guidelines have been revised to clarify that this Rule does not refer

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watching (in the case of television), or when children are likely to be listening (in the case of radio).				to God or any other deity.
Rule 12 Religion	TTPBA	<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 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>Insert the following words:</p> <p>“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, must not be allowed, and the code should be carefully worded to make this distinction very clear.”</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>
SECTION D – ENFORCEMENT AND COMPLIANCE				

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Section D Enforcement and Compliance 4 th 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 conviction by a fine of \$250,000 and imprisonment for up to five years"	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.
ii. is grounds for the termination or suspension	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

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on of the concessi on by the Minister , acting on the recomm endation of the Authorit y”				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 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	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

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their name or address..."				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 to time, and who are sensitive to the rights of the media, the public interest and the competing rights of aggrieved individuals and organisations.	We suggest that the Authority incorporate the Media Complaints Council into its process for the handling of complaints and also that 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	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 complaint is being considered. 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.

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			of the Code.	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.
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 serious, and how these were resolved.	The Authority has no jurisdiction over the Media Complaints Council and therefore cannot provide details of complaints received by the Council. The Authority received [] complaints in 2007.
"2.3 Where the complaint is in relation to the failure by the broadcaster to give a	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		The language has been revised. The Right of Reply has been replaced by a correction procedure.

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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."		<u>Executive Director</u> will then determine if a Right of Reply should be given?		
Section D. Compliance and Enforcement; 2.3 Right of Reply	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 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.	The Authority needs to be able to demonstrate the circumstances under which this provision makes sense.	The Authority does not agree. Waiting for a full assessment would substantially prejudice the value of the remedy to the complainant.
Section D Enforcement and Compliance	TSTT	Broadcaster must have opportunity to seek review of decision of TATT.	Broadcaster should be allowed to make	Any prosecution is conducted in the Magistrate's Court and therefore

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Dispute Resolution		There is no provision for ADR	representations before finding of a breach is made. Details of process to be established.	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 31-33)	TTPBA	There are no provisions in the document that allow for appeals to be made by the broadcaster. There is no provision for an arbitration panel and details of who will comprise such a panel. Is this included in the Telecommunications Act?		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

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		<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>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 the desk of a political appointee in the person of the Minister.	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. <p>The Authority is an independent body.</p>

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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-step complaints handling process)	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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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 seriousness or frivolousness of the complaints levied against broadcasters.		The Authority must assess the seriousness or frivolousness of all complaints in implementing the Code. The Authority has found that in the past that there have been a

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				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.