

ANNEX I: Decisions on Recommendations

The following summarizes the comments and recommendations received from stakeholders on the first draft of this document March 2013, and the decisions made by TATT as incorporated in this revised document dated March 11, 2014

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1. Introduction				
"Most societies recognize that in particular circumstances, certain rights and freedoms must be restricted".	JT Consultants	THIS IS A PARADOXICAL STATEMENT How can a right be restricted? That is against the actual reason for establishing rights. A right is called a right because it is right that it be done and so to restrict it makes it no longer a right.	What needs to be said is that "some tendencies, acts and behaviours must be restricted under or for certain circumstances. The statement is ambiguous and should be modified.	It is a fact that in modern democratic societies, not all rights are absolute, and in some instances, certain rights and freedoms are restricted pursuant to other prevailing public policy goals. An appropriate amendment has been made.
Some of the broad circumstances where restrictions may be considered include (1) the protection of national security (2) the	JT Consultants	Under the circumstances outlined here, one's rights will be <i>different</i> , but whatever is declared a right cannot then be restricted.	Again, this statement should be modified to reflect different rights of action being affordable to citizens under the circumstances of (1) the	The Authority notes this comment, and appropriate changes have been made.

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

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prevention of crime and disorder (3) territorial integrity (4) public safety, (5) the protection of health or morals or (6) the reputation or rights of others.			protection of national security (2) the prevention of crime and disorder (3) territorial integrity (4) public safety, (5) the protection of health or morals or (6) the reputation or rights of others.	
Page 4 “To ensure that material likely to <u>encourage or incite</u> the commission of crime or to lead to disorder is not included in broadcasting services;	JT Consultants	It is dubious to all except an eventual perpetrator him or herself what encourages or incites crime. The responses to that element in the Ryan Report on Crime, is proof of that. What is better to address is the promoting and glorifying of crime as an alternative life style. Since a lot of social recognition and achievement measures have to do with financial success and the accumulation of money, broadcasting should not glorify crime as a successful career path.		The Authority notes the substance of this comment. However, the Authority believes that the current wording is appropriate given the policy objective that is being sought. Furthermore, the suggested wording may amount to an even greater restriction on broadcasters.
Paragraph 2 “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	TTPBA	Does the Act actually state this? Because if it does, it would mean that TATT would have to have in-house staff who can guide us as to what is the national, social, cultural and economic wellbeing of the society.		Under Section 3 of the Act, one of the key objectives is to establish conditions “...to regulate broadcasting services consistently with the existing constitutional rights and freedoms contained in

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<p>guide the development of a broadcasting sector which is likely to safeguard, enrich and strengthen the national, social, cultural and economic well being of the society.”</p>				<p><i>sections 4 and 5 of the Constitution.”</i></p> <p>Another such objective set out in Section 3 is to establish the conditions for “...<i>the facilitation of the orderly development of a telecommunications system that serves to safeguard, enrich and strengthen the national, social, cultural and economic well-being of the society</i>”</p> <p>This therefore is the overarching context in which the Authority carries out its duties, and in particular, its duty under Section 79 of the Act to promulgate a Broadcasting Code for Trinidad and Tobago.</p>
SECTION B. OBJECTIVES				
Objectives pages 3-4	JT Consultants	An objective must be to promote and establish the use of standard English as a medium for communication and as a national language. The air waves are replete with “bad” English speaking and while there is a place for colloquial conversation, it should not pervade the entire broadcasting	That broadcasters be certified or tested as having proficiency and ability with the use of standard English and can ably demonstrate this, before they	The Authority notes the concern about proper language usage.

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		<p>airwaves.</p> <p>The only proper English seems to be spoken to deliver the national news. Proper English is vital to the social and economic development of the country and internationally useful for trade and diplomatic relations. Every Trinbagonian is a diplomat and a trader, so to speak and English must be that common platform for international communications.</p>	<p>are put on the air. They may have segments for the use of local parlance but before employment they should be ready and able to execute standard English when required or in appropriate circumstances. NB. This may also be classified as a self-regulatory or an Internal Policies objective measure, but nevertheless, the Code should still have as an objective “the effective use and promotion of the national language(s)”.</p>	<p>However, this is an issue which is socio-cultural in nature, and not necessarily regulatory. Furthermore, provisions regarding use of language may amount to over-restrictive interventions in the broadcasting sector.</p> <p>As noted, broadcasters are required to create internal policies which would address matters such as the proper training of on-air personnel.</p>
<p>Page 4: Point 3 “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”</p>	<p>TTPBA</p>	<p>I wish to quote from a recent editorial: “I want to debunk the notion that the media must be balanced and fair. Each media establishment may adopt its particular slant and none is obliged to give more than one side of the story. Objectivity is a laudable goal but is not a mandate.”Balance will come from a plurality of media voices. We have forty broadcasters and multiple press voices.</p>		<p>The Authority agrees that the plurality of the media is a key component of ensuring that the broadcasting sector collectively meets its social mandate.</p> <p>However, the Authority views the issue of election coverage as a key topic in which the implications of media coverage are so significant,</p>

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				that it is justified to have a stronger set of rules apply.
Objectives	CCTL	<p>CCTL believes that the objectives are laudable and well intentioned. We believe in some instances, the manner in which they are framed allows much latitude for subjective interpretation. To demonstrate this point we note the following instances:</p> <p>“To ensure that broadcasters avoid unjust or unfair treatment of individuals or organizations;”</p> <p>“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;”</p> <p>With subjective objectives, rules and guidelines tend to follow similarly. The level of subjectivity in interpreting the Code will result in unintended complaints. The cost and other resources required implementing and sustaining the level of monitoring and compliance (as contemplated in its current form) will be prohibitive.</p>		<p>Generally, the Objectives of a policy are meant to be broad and overarching, in order to provide context for the specific provisions which follow. However as with all regulatory instruments of a statutory nature, the provisions of the Code need to strike a balance in terms of the level of specificity.</p> <p>It should be noted that the Code currently provides that complaints (and resulting compliance and enforcement issues) would be within the remit of the Compliance Procedures as set out in Chapter 4 of the Code. As such, the provisions of the Code are drafted in order to ensure that there is enough flexibility to interpret the provisions as they apply to a specific case/complaint, as is necessary for any adjudicative body. Furthermore, to avoid</p>

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				ambiguities and arbitrariness in application, the Code also contains Guidelines which further contextualize and bring clarity to the substantive Rules.
SECTION C SCOPE				
Page 5 "...broadcasters' responsibilities towards the family, children and the community;"	TTPBA	If I have a responsibility to family, children and communities, that gives them rights, but there are no group rights, only individual rights. If you give communities rights then we can have rights for blonde people, Chinese people and fishermen.		<p>It is recognized that broadcasters were given a special right to provide a public broadcasting service. With such right comes the responsibility to the collective individual.</p> <p>The Authority believes that there are in fact certain rights which are enjoyed by identifiable groups of persons.</p> <p>In any instance however, the general social responsibilities of broadcasters alluded to in the cited section are not affected by group/individual rights.</p>

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<p>Page 5 “The Code sets out clear roles and responsibilities for both the broadcaster and the Authority in the addressing of complaints by members of the public regarding content broadcast, and for redress and penalties in the event that the standards set out in the Code are breached by broadcasters.”</p>	TTPBA	<p>Nowhere is there any mention of the Courts. The Minister will be Judge, Jury and Executioner? What about judicial review. And surely one’s licence should not be confiscated and broadcast stopped until there has been judicial review.</p>		<p>The Compliance provisions of the Code (see Chapter 4) facilitate various mechanisms for ensuring impartiality and due objectivity in compliance and enforcement matters. Such mechanisms include the possibility of public hearings, and a defined role for the Media Complaints Council (MCC).</p> <p>For the avoidance of doubt, nothing in the Code can be construed as prejudicing the right of any affected party to seek judicial review in accordance with the Laws of the Republic of Trinidad and Tobago.</p>
<p>The Code prescribes specific standards for broadcasting services in relation to a number of issues including the following: ... 3 Harm, abuse and discrimination</p>		<p>More about this later.</p>		<p>Noted.</p>

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<p>Page 5 “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.”</p>	<p>TTPBA</p>	<p>What are these fundamental rights? And if they are fundamental, why should they be qualified by the word “certain”?</p>		<p>This statement will be amended to remove the reference to “certain”.</p>
<p>Page 6 “The basic 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.”</p>		<p>Please give details of the “must carry” obligation. We are aware that a national broadcaster must have its programming carried on cable. But when we go digital and that broadcaster has its ‘main’ channel and eight or ten subsidiary channels, must the cable company carry all the channels or just the ‘main’ channel?</p>		<p>The must carry obligation referenced is related to the administration of Concession Condition B19 which provides for a national broadcaster [having] its programming on cable.</p> <p>With respect to the scenario outlined in the digital paradigm, the Authority notes this concern. This matter shall be addressed in a separate forum, as it is not a substantive aspect of the Code.</p>

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SECTION D CONSULTATION PROCESS				
2. HOW TO USE THE CODE AND GUIDELINES				
<p>Guidelines to Rules 13.1 through 13.4 Page 72 paragraph 5</p> <p>“New broadcasters will be required to produce and have their Internal Policies approved before commencing provision of broadcasting services. This will be achieved by the inclusion in the relevant concession of the approved Internal Policy as a Commencement of Service condition.</p>	JT Consultants	This implies that internal policies should form part of the application for broadcasting concessions. As these policies will also indicate the adequacy of the broadcaster to meet the requirements of the Code	Consider internal policies as a submission to be included in assessment and approval of the application for concession.	The Authority notes this recommendation, and shall take it into consideration in its future work.
<p>General comment or observation</p> <p>There is a need for principles to guide governance and</p>	JT Consultants	There are no principles outlined under which the code will be governed or administered. It is important for transparency and consistency that TATT iterate principles for its administration of the Code. Such principles are inter alia: Principle of equity and mediation in the adjudication of		These issues are addressed in Chapter 4 of the Code which sets out the regime for administration of the Code, with particular

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<p>administration of the Code itself. While the Code administers the quality and content of broadcasting the manner in which it must do so is just as important. For example, the Code could be enforced through coercion and non transparency but the principles make that harder to enable.</p>		<p>offences</p> <ul style="list-style-type: none"> • That stakeholder input will form part of the evaluating process • That offending parties will be allowed to respond to allegations or charges of Code infringements before a regulatory verdict is given. <p>That, mediation methods will be applied first to resolve infringement difference between broadcasters and offended parties or government.</p> <p>Principle of timely action to manage undue escalation and conflict among sectors and interest groups within the State:</p> <ul style="list-style-type: none"> • That within a timely period offences will be addressed and an interim action taken to stem escalation or stymie conflict. <p>The remedial decision will be addressed promptly thereafter to bring closure to breaches and violations of the Code</p> <p>Principle of non -discrimination in effecting agreed remedies or implementing decisions taken on account of breaches and violation to the Code;</p> <ul style="list-style-type: none"> • Avoiding political interference in the delivering of penalties and tacit sanctioning of high profile persons and businesses who commit breaches or violations of the Code. <p>Consistency in application of the Code across the society by avoiding or creating exemptions or, exceptions that are</p>		<p>reference to compliance and enforcement procedures.</p> <p>Section 4.1.8 sets out the concept of the co-regulatory approach which is to be used, while Section 4.1.9 sets out the issue of public participation in proceedings.</p> <p>As previously stated, the Compliance provisions of the Code (see Chapter 4) facilitate various mechanisms for ensuring impartiality and due objectivity in compliance and enforcement matters. Such mechanisms include the possibility of public hearings, and a defined role for the Media Complaints Council.</p> <p>For the avoidance of doubt, nothing in the Code can be construed as prejudicing the right of any affected party to seek judicial review in accordance with the Laws of the Republic of Trinidad and Tobago.</p>

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<p>affirmative responsibilities on a broadcaster to provide coverage of issues of public importance in an honest, balanced and just manner which is appropriate in the circumstances and does not seek to deceive the audience in any way or form.”</p> <p>“Offensive content” includes but is not limited to that which is violent, obscene, indecent, lewd, excretory, insulting or</p>		<p>plurality of opinion coming from forty broadcasters. If there were only one broadcaster (like the original TTT) then that broadcaster would have to give all sides of the story. But balance now will come because of so many varying opinions from forty broadcasters and the press.</p> <p>That word “offence” again.</p>		<p>aspects of a broadcaster’s media operations. As stated above, stricter rules are proposed in instances such as election periods where public policy concerns regarding impartial information are greater than in normal circumstances.</p> <p>However, in all instances, there are provisions which allow for partial or partisan opinions once it is clear that such opinions are not broadcast under the pretext of being absolute fact. In this regard, reference is made to the distinction between news programming and editorial programming in the relevant provisions which deal with fairness.</p> <p>Comment noted.</p> <p>The definition of “offensive</p>

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profane.”				content” has been deleted.
<p>Interpretation of Terms: Page 20: Nudity and Pornographic Material “2.10 Broadcasters shall minimise instances where nudity is broadcast outside of the watershed. Where nudity is broadcast outside of the watershed, it must be justified by the context, appropriately limited and inexplicit.”</p>	TTPBA	<p>Nudity and pornographic material In order to avoid any misunderstanding and confusion in the future we have to ask: “What about Carnival?”</p>		<p>As far as possible, the Code’s provisions are genre-neutral in that they apply without regards to specific categories of programming. In this respect, ‘Carnival programming’ is not regulated any differently than other forms of programming. It should be noted that instances of potential breaches of the Code would need to be evaluated on the specificities of a given scenario, and that general statements on specific categories of programming would be inappropriate.</p>
Interpretation of terms: Page 21: Harm, Abuse and Discrimination; Para 3	TTPBA	It is our opinion that we would do well to get rid of this clause entirely and have it replaced with a new clause, and include in that new clause ‘Obscenity’ which is now treated with in a	The proposed clause: Free Speech: The Constitution of Trinidad	The Authority notes these comments.

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<p><i>“Objective: To ensure that standards are applied to provide adequate protection of audiences against harmful, abusive or discriminatory broadcast material.”</i></p>		<p>separate clause. The Harm, Abuse, Discrimination and Obscenity clause should, in our opinion, be replaced by a clause titled Freedom of Speech, for it should be understood that these offences (if they are that) are an attempt to limit freedom of speech.</p> <p>This is a major change that is being suggested and it is incumbent on us to explain in detail why this change is being proposed for your consideration and to offer a substitute clause with guidelines.</p> <p>Freedom of speech is protected by the Constitution. But this freedom is not absolute. There already exist in Law several limitations of this right. Some, but not necessarily all of these limitations, are listed below. But whether a particular action offends any of these limits placed on free speech is very often a matter on which the Courts must decide and that is a very difficult decision having to balance two forms of liberty – freedom of expression and freedom from intrusion.</p> <p>A free press cannot be if there is no freedom of speech. And our Constitution guarantees a free press. These two constitutional guarantees – free speech and a free press – are mutually reinforcing and you cannot have one without the other. Some limits on Freedom of Speech:</p> <ul style="list-style-type: none"> - Slander - Libel - Incitement of Public Disorder - Offence against national security - Shouting “Fire!” in a public place, when there’s no fire. 	<p>&Tobago guarantees free speech and its expression - a free press.</p> <p>This is common to all democratic countries but, in practice, the society of each country causes limitations to be put on the right to free speech. So free speech is not absolute.</p> <p>This is the constitutional right that can be the most difficult to interpret because it often puts a person’s rights against public rights. But if freedom of speech is to have any meaning, it will allow for a vigorous public debate of everything and every belief in language that at times might be considered rancorous, unpleasant and offensive. Social harmony or political correctness cannot be allowed to limit free speech and it is instructive that practices over many years in all the media</p>	<p>However, stakeholders would appreciate that the Constitution of the Republic of Trinidad and Tobago is the supreme law of the land. And as such, it is not necessary to reference such concepts in order for the fundamental freedoms ensured therein to apply.</p> <p>That being said, the purpose of the Code is to provide substantive rules to which broadcasters are legally bound. The proposed clause is a reaffirmation of relevant rights rather than substantive rules, and is hence not necessary in the context of the Code’s objective.</p> <p>As such, the Authority does not agree with this recommendation. To remove Rule 3 entirely would result in a Code which does not address the critical issues of discrimination and potential</p>

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		<ul style="list-style-type: none"> - Advocating and supporting physical violence against a person - Child pornography - Fighting words. That is speech that ‘tends to incite an immediate breach of the peace by provoking a fight’. This is the judgment of the US Supreme Court and may not be the law of Trinidad & Tobago. <p>Nowhere in the laws of Trinidad & Tobago can the Harm, Abuse and Discrimination clause of the Broadcast Code be found and we don't see why TATT should be creating law, more so when the print media, whose freedom is guaranteed by the Constitution, is not subject to the same restraint that you wish to place on broadcasters. Radio and television are, after all, covered by the Constitutional guarantees of a free press. And what sin has electronic media committed that requires them to be subject to these draconian measures? We have operated for eighteen years with no Code and we make bold to say, well within the limits of the law, written and unwritten. And so has the press! This Harm, Abuse and Discrimination clause will have the result of making us an intolerant society who sees harm, abuse and discrimination behind every bush. Instead of promoting social harmony this clause will light the fire of intolerance. We have a socially tolerant society now in spite of there being no Broadcast and Press Code. Yes, the law requires a Broadcast Code but it does not state that we have to change the society in which we live. You should be careful that you don't poison the water in the well from which we all</p>	<p>have not resulted in an intolerant society.</p>	<p>defamatory statements. These two subjects are core subject matter of any code of conduct for broadcasters.</p> <p>Specific reference to “offence” has been deleted.</p>

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		drink.		
	TTPBA	<p>Two comments from eminent jurists are instructive: <i>“What we need is a market place of ideas.”</i> And the other comment, ensuring that competing rights are properly adjudicated: <i>“You can’t cook the pig by burning down the house.”</i></p> <p>The laws of Trinidad & Tobago put limits on free speech and all media must be subject to these laws. Media cannot say and do what they want and claim constitutional protection and it is strongly recommended that media seek advice as to what the limits are to free speech. The guidelines are just that, guidelines, and cannot be considered as a defence for any infringement.</p> <p>All media would be advised to seek legal counsel to ensure that they understand the limits to free speech, which should be clearly indicated in their internal code. A careful study of the guidelines would be a start in understanding the limits to free speech.</p>	<p>Guidelines: Some Limits on freedom of speech:</p> <ul style="list-style-type: none"> - Slander - Libel - Incitement of Public Disorder - Offence against national security - Shouting “Fire!” in a public place, when there’s no fire. - Advocating and supporting physical violence against a person - Child pornography - Fighting words. That is speech that ‘tends to incite an immediate breach of the peace by provoking a fight’. This is the judgment of the US Supreme Court and may not be the law of Trinidad & Tobago. Each of these offences needs to be carefully examined but that is best left to a lawyer and we strongly recommend that all 	The comments above refer.

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			media seek counsel in this matter.	
Interpretation of Terms	CCTL	The term “general audience” is used in the document, but its meaning is unclear. Within the industry the term usually refers to a rating classification e.g. in the United States V –Chip Rating Scheme. The scheme rates programming in terms of suitability for all ages. We recommend that this term be defined in the Code.	We recommend that term “general audience” be defined in the Code.	As stated in the General Guideline, where the issue of content classification arises, broadcasters are required to reference prevailing content classification regimes. Currently, there is no content classification developed specifically for Trinidad and Tobago; however it is anticipated that such a regime will be developed in the near future. A definition of “general audience package” has now been included
SCOPE AND APPLICABILITY				
Para 1.1 to 1.3 <i>Programming Covered by the Code</i>	CCTL	CCTL has several concerns with this draft especially as it relates to subscription television services: The drafting in the earlier version ³ of the Code clearly established that the Code covered only the basic package of subscription television services. Premium packages were totally excluded. In this updated draft the Code covers		The Authority notes CCTL's comments, and shall review the Code to rationalize which Rules are and not applicable to optional Subscription Television programming.

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		<p>premium packages. Paragraph 1.3 of the current draft states that optional or premium packages are only exempted from certain rules.</p> <p>This is a significant reversal from the position adopted in the previous draft. This significant change has been introduced without any explanation. This development belies the reality of the market in several important respects:</p> <ol style="list-style-type: none"> 1. Subscribing to cable television programming is a choice that customers exercise. This goes to the issue of freedom of expression and thought enshrined in the Constitution. <p>A key service feature is conditional access, with technology options available to control access to programming.</p> <p>In the United States for example, subscription television service, which a viewer has to explicitly request and includes functionality to support conditional access, is not covered by broadcast regulations. Unlike cable television, free-to air television uses government licensed broadcast spectrum and the programming is pervasive - the content is available to anyone. This is a key distinction that informs the regulatory treatment of subscription television content versus content provided via free-to-air television.</p> <p>Further, with technology developments enabling digitization, content formerly carried via traditional broadcast medium is now available via telecommunications platforms such as the internet. As far as CCTL is aware, where individuals stream</p>		<p>However, for the avoidance of doubt the Authority stresses that there are certain rules which would apply to all broadcasting, even if options, as they stem from other prevailing laws. One such example is Rule 2.14 on avoiding broadcasts of the names of children who are victims, accused or convicted of crimes.</p>

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		<p>content on the internet, this remains outside the scope of the Code. With the growing trend of individuals consuming content via new media, regulating content available through cable subscriptions [and premium packages in particular] will result in unbalanced regulatory treatment. This will have the unintended consequence of favouring one medium over the other. Importantly, with this change the intended outcome of the Code would not be achieved.</p> <p>This approach to broadcasting regulations is therefore inconsistent with market developments and contrary to current trends in content regulations.</p> <p>We also believe that the approach introduces an unwarranted level of subjectivity and is very prescriptive and restrictive. Individual sensitivities, taste, likes and dislikes vary widely. There is therefore every possibility that this will have the unintended consequences of restricting the fundamental right and freedom, to freedom of thought and expression of some persons. This approach also comes with significant costs to the industry to implement extensive monitoring and compliance infrastructure. Burdening the industry with this cost does not promote efficient investment or the competitive development of the industry. The final consumer would bear the cost, but for several reasons [as outlined above] the value or return on that investment would be questionable at best. A yardstick to measure an effective regulatory mechanism is when the benefits to the society outweigh the cost. Requiring the implementation of an expensive compliance and monitoring</p>		

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		mechanism for content that is provided via subscription television platform does not pass this test.		
Scope and applicability Para 1.4 <i>Use of Parental Control Tools</i>	CCTL	<p>We support the use of parental control mechanisms. We are of the considered view that these automated tools can be used in conjunction with customer education programmes to effectively and efficiently protect children from unsuitable content. We believe the focus should be on giving parent and other adults the information and tools to make responsible viewing choices for their children. This is the more long term sustainable solution, especially with the impact social media is having on how the youth population in particular consumes and produce content.</p> <p>CCTL offers customers a range of effective parental control mechanisms [e.g. capabilities to block programming based on entire channel, time of day, programme rating and title]. We believe effective use of these tools can more efficiently achieve the outcome TATT is seeking to achieve through blunt force regulatory approaches that will be costly to implement and impossible to monitor and enforce.</p>		The Authority notes this comment, and endorses the provider's drive to use a range of tools to achieve the broad policy objectives of the Code.
Scope and applicability Para 1.5 <i>Editorial Judgement</i>	CCTL	While not addressing this paragraph on its merit from an editorial perspective, we would point out that CCTL's business model is content distribution, as opposed to creating / developing content. CCTL has no editorial control over the material it distributes. Outside of the Concession requirements to distribute national and major territorial free-to-air television channels, our programming selection is informed by market	These rules should only relate to local content developed for this market. Development of local content should be promoted using local content quotas for free-to-air broadcasters.	The Authority notes this comment. However, the Authority does not agree that the subscription broadcaster has absolutely no responsibility for "editorial control". In the Authority's view, the subscription broadcaster

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		<p>demands.</p> <p>The reality is that Trinidad and Tobago and the rest of the Caribbean Region for that matter is a net importer of content. There are many historical, cultural, economic and social reasons why this is the case. Expending resources to regulate foreign content that is already subject to regulations in the market of origin will not benefit the market. A more constructive approach, which also supports wider socio-economic goals, would be to encourage the development of local programming on free-to air television. This will flow through to subscription television as well via the must carry obligation for subscription TV concessionaires. The rationale behind must carry policies is to allow for widespread broadcast of local content.</p> <p>The broadcast media helps to define the norms, mores and cultural identity of a society. To foster the development of local content markets such as Europe and Australia stipulate quotas for national content in free-to-air television programming. In Australia for example free- to-air television licensees have to transmit 55% Australian programming between 6 AM and midnight. We believe a similar approach would be useful in this market.</p>		<p>effects such control in the selection of the channels it chooses to rebroadcast.</p> <p>The issue of regulating and/or incentivizing local content production is reserved for a separate forum. The Authority would welcome CCTL's comments on this issue at the appropriate time.</p>
Rules 2.3 to 2.16	CCTL	Given that the interpretation of these rules allow for a significant degree of subjectivity, much of the content (even to the basic package) could be interpreted as violating the Code.		As stated above, with all regulatory instruments of a statutory nature, the provisions of

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		<p>The following examples are used to illustrate the point.</p> <p>i. There is no time limit to news. Content depicting violent actions are regularly broadcast on CNN, BBC World or FOX, including violence against children.</p> <p>ii. National Geographic and Animal Planet broadcast shows of wildlife including scenes of animals killing each other. While depicting real life, the scenes could be interpreted as too traumatic for some children.</p> <p>We reiterate that generally the current drafting leaves too much to individual preference and interpretation. This will render monitoring and compliance time consuming, expensive and ineffective.</p>		<p>the Code need to strike a balance in terms of the level of specificity.</p> <p>It should be noted that the Code currently provides that complaints (and resulting compliance and enforcement issues) would be within the remit of the Compliance Procedures as set out in Chapter 4 of the Code. As such, the provisions of the Code are drafted in order to ensure that there is enough flexibility to interpret the provisions as they apply to a specific case/complaint, as is necessary for any adjudicative body. Furthermore, to avoid ambiguities and arbitrariness in application, the Code also contains Guidelines which further contextualize and bring clarity to the substantive Rules.</p>
2.17 Breaching Watershed for Basic Package Due to Change in Time Zones.		As discussed earlier content distributors such as CCTL have no editorial control over the programming material. CCTL does not own the content. It is provided under licensing by the content owners. Such content is packaged for many markets. It	We recommend the use of public awareness programmes and parental control devices to seek to protect children from	The Authority notes the recommendation on the use of public awareness programmes, and also reiterates that provision of

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		We are not suggesting that Trinidad and Tobago adopt the cultural mores, standards and practises of a foreign territory: However, having regard to the intended purpose of the Code the rules should be relevant, contextual and implementable.		
Section 3.9 page 23 Section 12.9 page 28	JT Consultants	In reference to subscription services there should be a sharper edge to the rule, by setting out the statement in a more active tense than the passive one now being used. Instead of treating subscription service providers as an exception, they (internet and cable broadcasters) need to recognise themselves as falling under the jurisdiction of the Code. Such a statement as made here tends to minimalise the relevance of the Code to these service providers. Why would you want that?	Instead of saying, for example, Rules 3.5 and 3.7 shall not apply, convert the statement into “ Subscription broadcasters must inform adult subscribers of the nature of their programming and the fact that it may not comply with all provisions of the Code, as well as ensure that adequate parental control mechanisms are implemented and accessible”.	The Authority notes this comment. However, the contents of the Code already provided of the suggestions of parental control mechanisms and disclosure of non-compliance to subscribers. As the Code will become a statutory instrument, the Authority believes that it is necessary to have explicit provisions from which subscription television providers are exempt.
Rule 8. Elections	CCTL	CCTL believes that this section is intended to address the coverage of Trinidad and Tobago elections. Unwittingly the way the Code is structured and drafted begs the question of whether this would be relevant to coverage of the US elections being carried on say CNN, which is packaged for		The elections being referred to are only in relation to Trinidad and Tobago. The Authority's definition of

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		redistribution in several markets including Trinidad and Tobago. This highlights the impracticality of this approach and underscores the need to treat with the redistribution of foreign channels separately for the purposes of the Code.		'period of elections' already references the Representation of the People Act, and hence clarifies that application is local only.
Rule 11. Information Warnings & Audience Protection	CCTL	In the subscription television market where most of the content is foreign programming it would be impractical to implement mechanisms to comply with these rules. Unless these warning or advisories are provided by the originating network and imbedded as part of the broadcast, there is no method of advising the viewer unless this is done after the fact.		The broadcaster has a responsibility, by whatever means, to alert the customer. This obligation will also be applicable in the case of premium channels.
Page 27; Rule 11 – Information, Warnings and Audience Protection <i>“Objective: To ensure that viewers and listeners are given minimum protection against harmful programmes and are given information and warnings about broadcasts of programming that contains any material that is capable of causing offence.”.</i>	TTPBA	Here we go again, “offence”.		The Authority notes this comment. The Rule has been modified appropriately.
Rule 12 Advertising	JT Consultants	Consider the mechanisms of other professions where undue	Create benchmarks for	The Authority notes this comment.

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<p>12.3 “Broadcasters shall ensure that there is no influence by advertisers, sponsors or promoters, or the perception of such influence, on the broadcasts relating to the reporting of news or current affairs, which must be accurate, balanced, and objective”</p>		<p>influence is disfavoured and include the stipulation that where more than X % of revenues of a broadcaster are accountable to one customer, then that customer can be considered capable of imposing undue influence on the broadcaster’s agenda and as a consequence poses a threat to the unbiased programming of that broadcaster.</p>	<p>identifying instances where undue influence may be exerted upon broadcaster to compromise their fairness and journalistic integrity.</p>	<p>However at this time, the Authority’s jurisdiction over the revenue base of broadcasters is limited. Furthermore, this may create undue interference in the free market for broadcasting services.</p> <p>In the Authority’s view concentration of revenue sources is only detrimental when an inherent bias is created. Furthermore, such a bias is only detrimental when it related to news and current affairs coverage, which is the subject of Rule 12.3 As such, an overall limit on revenue sources, would not be appropriate.</p> <p>The Authority also notes that in the instance that there is an allegation of a breach of this Rule, such information on revenue sources would likely form part of the evidence in the investigations into such a breach.</p>

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<p>For internet broadcasts and incoming streaming web sites provided access to by local service providers, the availability of appropriate filters that can allow customers the facility to block content as they see fit, should be a mandatory requirement from these service providers. This assists parents in maintaining control over any home broadcasting coming from international sources not directly accountable T&T jurisdictional control but yet accessible to our markets for trade.</p>	<p>JT Consultants</p>	<p>Computer sales companies can also have a hand in installing internet filters that can allow appropriate parental control for incoming streaming broadcasts. This should not be a cost borne by consumers.</p> <p>Harmful and illegal content is only thwarted by computer owners having access to the right kind of filter that they can use to self-regulate their content consumption. If this not possible, then the internet poses a one way street to decadence for children users.</p>	<p>Use the Code to allow self-regulation of harmful and illegal content emanating from the internet. Bypass the Act's inability to regulate subscription service by applying regulation to equipment and facilities that can get the same job done voluntarily, by users themselves.</p>	<p>Internet services are excluded from the scope of the Code.</p> <p>Furthermore, with reference to the comments made, computer and internet browser retailers are not within the jurisdiction of the Authority.</p> <p>In terms of subscription services, the Authority notes that the proposed approach is already taken as subscription broadcaster are required to provide mandatory parental control mechanisms.</p>
		<p>What about the warning announcements of flash photography and other light surges that can be harmful to the eyes of viewers when broadcast?</p>	<p>An inclusion should be made to avoid broadcast of light surges that can injure the eyes of viewers. And also lead to private litigation upon broadcasters</p>	<p>The Authority agrees with this proposal, especially given the increased attention in the international community to the issue of audiovisual content as a trigger for photosensitive epilepsy.</p>

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				The Code has introduced a new provision to deal with this issue.
Rule 13 13.0 – 13.8 Preparation and Submission of an Internal Policy for Approval	TSTT	<p>The Guidelines to the Rules indicate that no concessionaire will be permitted to operate without having prepared and implemented internal policies that are deemed acceptable by the Authority. Further, Broadcasters must submit to periodic reviews of their approved policies.</p> <p>The Authority appears to be giving itself the power to approve or disapprove of the internal policies of broadcasters where no such provisions exist in either the Telecommunications Act or the Concession. TSTT therefore requests that the Authority direct it to the relevant sections of the Telecommunications Act or the Concession that convey to the Authority the power to approve a broadcaster's internal policies.</p> <p>Delete provisions which imply a power to approve (or disapprove of) internal policy documents</p>		The Authority notes this concern. The revised draft of the Code does not provide for an explicit approval of the Internal Policy. The approach undertaken seeks to strike the appropriate balance between ensuring compliance to the Code and enforcement through disruptive, punitive interventions pursuant to Section 50 of the Telecommunications Act, after the Code is deemed to have been breached.
Rule 13. Broadcasters Internal Policies	CCTL	Based on the current draft of the Code, it would be cost prohibitive and virtually impossible for a subscription television player to develop internal policies to seek to monitor and comply with the Code in its current form.	We reiterate our recommendation that the Code should not cover foreign content redistributed locally.	Please see comments above regarding responsibility for selection of appropriate channels for re-broadcast.
Rule 6, Page 24: Religion	TTPBA	Can one be derogatory of all religious beliefs?		It would be inappropriate for the

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<p><i>“Objective: To ensure that material is not broadcast which involves derogatory treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination; and that broadcast material does not result in the exploitation of any susceptibilities of the audience.”</i></p>				<p>Authority to make such a general pronouncement on what is or is not permissible. Any potential breach of the Code would need to be evaluated based on the specificities of the individual scenario.</p> <p>However, the Authority recalls that the subject of Rule 6.1 is <i>“...persons belonging to a particular religion or religious denomination”</i>.</p>
<p>Rule 7 , Pg 24: News and Public Affairs <i>“Objective: To ensure that broadcasts of news and current affairs, in whatever form, contain content reported with due accuracy, balance, and due impartiality.”</i></p>	TTPBA	Balance comes from a plurality of media. You cannot mandate it or legislate it.		<p>The Authority notes this comment.</p> <p>However, the provisions of Rule 7 are designed to apply to coverage of news and current affairs, and not all programming. As such, exemptions are created for programming which is clearly identified as editorial or opinion-based in nature.</p>
<p>Page 25: Rule 7.1 <i>“Broadcasters shall endeavour to ensure that</i></p>	TTPBA	This will come from a plurality of voices, maybe each with a different opinion.		<p>The Authority notes this comment, and the response immediately above refers.</p>

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<i>broadcasts of newscasts, including 'Breaking news', in whatever form, contain content which is reported on with due accuracy, fairness, balance, and is presented with due impartiality."</i>				The Authority again reiterates the distinction between newscasts and editorial content. While editorial content may display an inherent bias, the reporting on News, and the facts therein, should not.
Page 25: Rule 8 – Elections <i>"Objective: To ensure that where broadcast material relates to political matters during the period of elections, such broadcasts present a sufficient range of information, views and opinions, in a balanced manner, to enable the audience to make informed political decisions."</i>	TTPBA	So, a station cannot be prejudiced if they say they are?		The Authority cannot make a generalized statement on this comment. However, the distinction between news coverage and editorial content also applies to coverage of elections. The policy goal is to ensure that biased material is not broadcasted under the false premise of being impartial and objective.
Page 26: Rule 9 – Fairness <i>"Objective: To ensure that broadcasters avoid unfair treatment of individuals or organisations 9.1 Broadcasters shall avoid unfair treatment of individuals</i>	TTPBA	We suggest this be left out entirely. Life is not fair. And if you want to live in a society that is democratic, with respect for free speech, you must be prepared to hear things about yourself that you don't like, whether fair or not.		The Authority does not agree with this recommendation. In the context of Rule 9, 'fairness' mainly refers to the treatment of parties who make contributions to programmes. The Rule has been

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<i>or organisations.</i>				amended appropriately.
Page 28: 12.5 Advertising, Sponsorship and Promotional Programming <i>“Broadcasters shall ensure that any advertisement which offers educational courses provided in Trinidad and Tobago (including courses provided to persons in Trinidad and Tobago via distance learning or correspondence) includes a disclaimer as to whether the courses have been duly accredited or not and whether the institution has been recognized or registered by the relevant authorities.”</i>	TTPBA	The word “disclaimer” seems to be the incorrect word to be used here. Suggestion: “...includes a statement (or declaration)...”		<p>The Authority believes that the word ‘disclaimer’ is appropriate here.</p> <p>To the general public, there may be an implied assumption that an advertised educational course is accredited by the relevant authority. As such, a disclaimer is necessary to mitigate any potential liability in instances where the course is not actually accredited.</p>
Page 29: 13.1 – Preparation and submission of Internal Policy for approval <i>“Every broadcaster shall, within six (6) months of the promulgation of the Code, produce and submit to the Authority for its approval, a written policy</i>	TTPBA	Can the broadcaster say: “My Code is the Broadcast Code”?		<p>The Internal Policy developed by broadcasters is a mechanism to demonstrate how the broadcaster intends to ensure compliance with the provisions of the Code.</p> <p>Such a policy will therefore have procedural aspects, while the Code itself is merely prescriptive</p>

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<p><i>document setting out the internal policies, processes and procedures (its "Internal Policy") that the broadcaster proposes to implement within its broadcasting business to ensure compliance with the Broadcasting Code. The Internal Policy must at a minimum, be consistent with the Rules contained in the Code and best broadcasting industry practice, and must to the reasonable satisfaction of the Authority be adequate to ensure the broadcaster's compliance with the Code, and that effective and appropriate measures will be undertaken by the broadcaster to address any instances of non-compliance."</i></p>				<p>regulatory provisions. As such, reproduction of the Code may not meet all the requirements of an Internal Policy.</p>
COMPLIANCE WITH CODE				
Page 33: - Compliance with	TTPBA	"Content" here cannot refer to programming the broadcaster		The Authority notes this comment.

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<p>Code: 4.1.2 “The Authority will, in discharging this responsibility, consider and investigate complaints regarding broadcasting content, and shall implement its own monitoring systems to identify instances of possible non-compliance with the Code.”</p> <p>Compliance with Code: 4.1.3 “...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 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.”</p>	TTPBA	<p>chooses to broadcast as TATT cannot legislate content. The clause should be clearly explain this.</p> <p>No judicial review? The Minister is Judge, Jury and Executioner?</p>		<p>The appropriate amendment has been made.</p> <p>As previously stated, the Compliance provisions of the Code (see Chapter 4) facilitate various mechanisms for ensuring impartiality and due objectivity in compliance and enforcement matters. Such mechanisms include the possibility of public hearings and a defined role for the Media Complaints Council. Ultimately, all enforcement action of the Authority culminates with a judgment by the courts. As such the matter of the Minister or the Authority being “judge, jury and executioner” does not arise.</p>

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				For the avoidance of doubt, nothing in the Code can be construed as prejudicing the right of any affected party to seek judicial review in accordance with the Laws of the Republic of Trinidad and Tobago.
Page 42: Complaints about Broadcasting Content: 4.2.1. "The Authority shall establish, by publication in the Gazette and in one daily newspaper with circulation in Trinidad and Tobago, procedures for the submission of complaints regarding the compliance by any broadcaster with any provision of the Code..."	TTPBA	In what form must this complaint come to the broadcaster, verbal or written? We certainly suggest not oral.		The Authority notes this comment, and shall consider such when developing and/or reviewing the relevant procedures for complaints.
Compliance with Code	CCTL	The inclusion of a co-regulatory and compliance approach is a positive development. CCTL supports this development with respect to local content that is developed for distribution to this market. International networks will not program content according to the Trinidad and Tobago Code. Programmes are developed for distribution to multi-countries, it would be		Concession Condition D33 requires broadcasting concessionaires to maintain recordings of programming for a period of twenty-eight days.

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		<p>impossible to comply with every country's Code definitions. For this reason it is our considered view that the compliance requirements even allowing for a co-regulatory approach would be impractical for foreign content.</p> <p>For example, in considering potential breaches [4.3.2(e)], TATT would request recording of the offending material. To comply with this would require a cable TV provider to record and maintain content from all channels it distributes for the minimum for a period of twenty eight days. This is not practical or financially feasible solution.</p> <p>If operators are forced to this level of compliance, costs would be substantial and ultimately borne by the consumer. There is a real question as to whether the market could absorb these costs. The likely impact would be a lessening of competition.</p> <p>With respect to the role of the Media Complaints Council (MCC), as far as CCTL is aware the remit of the MCC covers the monitoring and enforcement of a code of practice adopted by participating media houses. CCTL does not operate a media house. While the mechanism may work for the media houses that develop their own content and therefore have editorial control over material aired, for the subscription television model, this approach is unworkable.</p>		<p>The Authority will commit to review this matter.</p>
Section 4 Compliance with the Code	JT Consultants	There seems to be no system or process of appeal for sanctioned offenders, once determined to be in breach	Consider a system of appeal maybe a mediator in the instances where broadcasters stand to lose their capital	Under Section 83 of the Act, any affected party who is aggrieved by a decision of the Authority may request that such decision be

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			investment?	<p>reconsidered based upon information not previously considered. This right to appeal would apply to all regulatory decisions including determinations on compliance with the Code.</p> <p>Furthermore, and for the avoidance of doubt, nothing in the Code can be construed as prejudicing the right of any affected party to seek judicial review in accordance with the Laws of the Republic of Trinidad and Tobago.</p>
5. THE GUIDELINES				
<p>Page 46: Guidelines to Clause 1 – General Rules “Without prejudice to the generality of Rule 1.1, broadcasters should specifically operate within the provisions of all intellectual property laws of Trinidad and Tobago, and should always ensure they have secured the</p>	TTPBA	<p>We suggest that there be an addition to that clause: “and be able to show the authority proof of that.”</p>		<p>Concession condition D13 already accounts for this requirement.</p>

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proper authorization from the owners of any intellectual property relating to any material or content which is broadcast.”				
Page 51: Guidelines to Clause 3 - Harm, Abuse and Discrimination	TTPBA	Comment: See former comments.		See previous comment on this matter.
Page 52: Guidelines to Rule 3.1 “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.”	TTPBA	“Offence” again.		See previous comment on this matter.
Guidelines		In the first paragraph of the Section reference is made to “ <i>prevailing or existing frameworks for content classification ratings</i> ”. CCTL is not aware that such ratings exist in this market. We are therefore asking TATT to clarify this point. If a local rating system were to be developed, we would see this applying to locally produced content. It would not be practical to overlay a local rating system on content developed in another market. We note that rules are intended to be read with the related	CCTL is requesting that TATT clarifies its intention regarding content classification ratings in this market.	The Authority notes this comment. However, the Authority wishes to advise that a system for content classification is currently not formally in place in Trinidad and Tobago. As such, the statement reflects the anticipated implementation of such a system in the future, where the relevant

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		<p>guidelines. The guidelines tend to be wordy and lack coherence as they are in a separate section of the document. We believe that the clarity of the document could be improved by positioning the guidelines below the relevant rules.</p>		<p>administrative body is yet to be determined.</p> <p>However, in the absence of any classification regime, the broadcaster is encouraged to transparently publish the standard it intends to use and adhere to it.</p>
<p>Page 52 “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:</p>	<p>JT Consultants</p>	<p>A critical inclusion must be “minority opinion” Where minority groups exist in the midst of majorities a strong factor of discrimination is to suppress minority opinion and expression so minority groups that differ from the mainstream must also be allowed a voice and broadcasters are duty bound to ensure this is done in quota over a particular period of time and time of day as well.</p>	<p>Include the freedom and non-discrimination in airing minority opinion – minority does not necessarily refer to race only, but to all other facets - religion, social groups, ideological groups etc. all within the confines of avoiding harmful and illegal content, of course.</p>	<p>The Authority interprets this recommendation as mandatory air-time quotas for different demographic groups. Such a policy would amount to intrusive restrictions on the conduct of broadcasters. Furthermore, such a general provision may not be viable as its implementation would depend on the particular context of any given programme.</p>
<p>Page 56 – Guidelines to Rule 5.1 “Any reference to a specific racial or ethnic group should use neutral adjectives. Broadcasters should express</p>	<p>TTPBA</p>	<p>Why only the major groups?</p>		<p>The substantive Rule 5.1 refers to ‘derogatory racial and/or ethnic labels’. The Rule hence covers all demographic groups.</p>

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particular sensitivity to the use of such terms when referring to the major racial and/or ethnic demographic groups of Trinidad and Tobago.”				The corresponding Guideline, like all Guidelines in the Code, is given to provide clarity on interpretations and to give guidance to broadcasters in implementing the Rules. As such, the Authority is merely noting that broadcasters should exercise particular caution in relation to the terms used to describe the major demographic groups, as this has been identified as a particularly sensitive issue for the local society.
Page 56 – Guidelines to Clause 6 – Religion “Guidelines to Rule 6.1-6.2 The use of derogatory terms and labels in referring to individuals and groups belonging to religious groupings or individuals and groups who follow no religion in the society must therefore be avoided.”	TTPBA	Why? I can say that there are people who believe that “if you bathe with a lime you cannot get AIDS”. Religion is a belief just like that belief, a belief like any other, and one that cannot be proven. Why is religion sacrosanct?		The substantive Rule 6.1 refers to the use of derogatory terms targeted towards persons belonging to a particular religion or religious denomination. The purpose of this rule and its corresponding guideline is to prevent derogatory statements and does not prevent general criticism of belief systems.

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				The rule is intended to expand upon the provisions of Rule 3.1 on general discrimination.
Page 58 – Guidelines to Clause 7 – News and Public Affairs	TTPBA	This guideline should have an addition: “Broadcasters have the right to determine what is news and what stories will be selected for news broadcasts.”		The Authority notes this comment. However, it does not believe that it is necessary to include such a statement, as this right is naturally reserved by the broadcaster. Nothing in the Code prejudices a broadcaster’s ability to select stories for news broadcasts.
Page 65 – Practices; 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.”	TTPBA	Take Carnival, how will this work?		The Authority notes this comment. The current practice deals with coverage of events specifically in news programmes. However, in terms of the implications of coverage of events in a public space, violations of a person’s privacy would depend on specific circumstances, such as the likelihood that members of the public would be aware that their presence may be captured in a broadcast.

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				The Guideline to Rule 10.1 has been amended to elaborate on this notion.
Page 66 – Practices; v “If an individual or organisation's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the broadcaster shall do so, unless it is warranted to continue.”	TTPBA	This needs further explanation and, in particular, the word “warranted”.		Generally, whether a practice is warranted or not would depend on the particulars of a scenario. However, the Authority shall elaborate on Practice (v) of the Guidelines to Rule 10.1 to qualify the meaning of the term “...unless it is warranted to continue”.
GENERAL COMMENTS				
General	TSTT	<p>TSTT thanks the Authority for the opportunity to comment on the Proposed Broadcast Code and its Guidelines. TSTT, however, notes with no small degree of concern an attempt by the Authority to expand its jurisdiction into areas in which it is legislatively ill-equipped to function.</p> <p>In the first instance, the Authority has constructed measures that require Broadcasters to submit their internal policies for approval by the Authority. TSTT can find no supporting clauses in the Authority’s enabling legislation or the Concession that empowers it so to do.</p> <p>In the second instance, the Authority proposes to be the final</p>		<p>The Code is not a tool of self-regulation but of co-regulation where there is a role for the Authority to ensure compliance.</p> <p>Indeed, the provisions of the Code are the outcome of broad consultation with broadcaster over a period of time. Provisions such as the submission of internal policies were recommendations from industry stakeholders.</p>

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		<p>arbiter in determinations on matters involving the appropriateness of content with respect to matters of race, reporting of elections, elections, fairness in news reporting, religion, and the appropriateness of content in television programmes. These are all areas in which the Authority has little standing and public trust since it is a creature of the State.</p> <p>It appears that the Authority has eschewed notions of self-regulation and has attempted to force a code for professional conduct on the industry where it is abundantly evident that such a code should originate from the industry itself.</p> <p>TSTT views this foray beyond the broad guides set in the Concession as an error on the Authority's part and advises that the Authority should in good faith examine the potential for self regulation with regard to the specific areas listed above.</p>		
General Role of the Media Complaints Council Page 44; 4.5.4	TTPBA	The TTPBA had asked that this be omitted since this is in contravention of the spirit of co-regulation which both TATT and the TTPBA originally agreed upon. The MCC is an independent body. Should TATT appoint an alternative body, there would be no independence and this would mean government regulation and a possible infringement of the democratic process, which can severely hinder freedom of speech and basic constitutional rights.		<p>The Authority is a statutory entity and shall exist in continuity unless its enabling legislation is repealed by the Parliament of Trinidad and Tobago. The Media Complaints Council (MCC) is an industry body, and legal guarantees as to its continuity cannot be ensured.</p> <p>As such, the Authority sees it as</p>

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				<p>prudent to provide for continuity of the co-regulatory approach by enable a transition to an alternative to the MCC if necessary.</p> <p>Furthermore, the legitimacy of the MCC is founded upon the support of the broadcasting concessionaires themselves. Should this support cease to exist, it would be only prudent for the Authority to collaborate with the industry itself to ensure legitimacy in the co-regulatory approach.</p>
Consideration of Potential Breaches Page 35; 4.3.2 g –	TTPBA	It was agreed at our previous meeting with TATT on the Draft Broadcast Code that the public would be allowed twenty-eight (28) days within which to make a complaint.		<p>The Authority notes this comment. However, this is a matter which would be subject to the Authority's Broadcast Content Complaints Handling Procedures.</p> <p>TTPBA is invited to make representations on this matter when those procedures are being consulted upon.</p>
Consideration of Potential	TTPBA	Our position regarding the panel was to have an MCC or		The Authority believes that the

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Breaches Page 36; 4.3.3 c		TTPBA appointed person who had no direct interest in the matter being investigated.		<p>MCC and TTPBA would always be interested parties, as both entities represent the industry itself.</p> <p>As such, the Authority believes that it would not be appropriate to have such an appointee the panel.</p> <p>The MCC does however serve as an independent witness where called upon, in accordance with the process for consideration of potential breaches.</p>
Broadcasters' Internal Policies Page 29; 13.6	TTPBA	<p>We would like to have the following included at the end of this point:</p> <p>“This is based on the understanding that TATT cannot change the programming policy or business model of the broadcaster or dictate any measures which may hinder the programme and station policies. The internal policy can be stated as an adoption of TATT’s Guidelines to Rules.”</p>		<p>The Authority believes that such a statement is not necessary, as this right is naturally reserved by the broadcaster.</p> <p>Furthermore, as stated above, the Internal Policy developed by broadcasters is a mechanism to demonstrate how the broadcaster intends to ensure compliance with the provisions of the Code.</p> <p>Such a policy will therefore have</p>

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				procedural aspects, while the Code itself is prescriptive in nature. As such, a simple statement of adoption of the Guidelines and Rules would not suffice.
Watershed	TTPBA	We would like TATT to revisit this and consider a compromise of moving the watershed period to commence at 9:00 p.m. Television broadcasters have said that the proposed watershed period commencing at 10:00 p.m. will threaten their commercial viability and place them at a competitive disadvantage to other media options available (Internet TV, Premium Cable etc.) to the public during the timeslot 8:00 p.m. to 10:00 p.m.		The Authority notes this comment, and has given careful consideration to the recommendation of changing the watershed period. However, at this time, the Authority maintains its position that the watershed period should begin at 10:00 pm in line with international best practice.
Warnings and Sanctions for Breach of the Code Page 40-41; 4.4.3	TTPBA	We would like the Authority to consider, instead of suspension and eventual termination, a series of fines as is the policy in the USA and most developed countries.		The Authority notes this comment, and advises that the Code has an escalating action approach based on successive breaches. In terms of fines, the Authority advises that the Telecommunications Act in its current form does not allow for administrative penalties to be leveraged as an enforcement

Document Sub-Section	Submission Made By: Stakeholder Category ¹	Comments Received	Recommendations Made	TATT's Decisions
				mechanism.