



GIBRALTAR REGULATORY
AUTHORITY

Programme Standards Code

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FOREWORD

A Code setting the standards on matters relating to the protection of minors, harm and offence, privacy, fairness, crime and religion.

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1. Legislative basis

The Gibraltar Regulatory Authority (“the Authority”) has developed a code for the protection of minors (“the Code”) in accordance with the Broadcasting Act 2012 (the “Act”).

Section 22(1) of the Act provides that:

The Authority may from time to time with respect to any form of broadcasting or other audio media service or audiovisual media service, or both, issue codes of practice to broadcasters under Gibraltar jurisdiction which may address any issues with respect to broadcasting standards, taste, decency, accessibility to the disabled, the advertising of products to children, and such other issues as should from time to time appear important.

2. Jurisdiction

The Code shall apply to broadcasters within the jurisdiction of Gibraltar or those who make use of a frequency or satellite up-link or use satellite capacity appertaining to that of Gibraltar. In practical terms, the Code shall apply to broadcasters of television services as well as broadcasters of radio services in Gibraltar.

3. Complaints

Viewers and listeners who believe programme material has not complied with the requirements of this Code are entitled to make a complaint. Further information on how to make a complaint is set out in our “Procedures for Handling of Complaints” which is available on our [website](#).

The effective date of this Code is 5th July 2017.

4. Objectives of the Code

The main objectives of this Code are:

- To promote responsible broadcasting in which entertainment, education and access to information and a range of views are enhanced and offence and harm are reduced.
- To acknowledge the diversity of tastes and interests which exists within our local community and to facilitate broadcasting that caters for this diversity.
- To advise viewers and listeners of the standards they can expect from local broadcasting services.
- To provide guidance to broadcasters in relation to matters falling within the scope of this Code.

The Code does not seek to address each and every case that could arise. Broadcasters may face a number of individual situations which are not specifically referred to in this Code. Examples included in the Code are not exhaustive. However, the principles, as outlined in the document, should make clear what the Code is designed to achieve and help broadcasters make the necessary judgements.

The Authority will further assist those who work in broadcasting, as well as viewers and listeners who wish to understand broadcasting standards, by issuing non-binding guidance to accompany the Code.

However, any such advice is given on the strict understanding that it will not affect the Authority's discretion to judge cases and complaints after transmission and will not affect the exercise of the Authority's regulatory responsibilities. Broadcasters should seek their own legal advice on any compliance issues arising. The Authority will not be liable for any loss or damage arising from reliance on informal guidance.

5. Definitions

5.1. Children / Very Young Children / Young Persons

Under the Children Act 2009, a 'child' is defined as a person who is under the age of 18. However, for the purpose of this Code, the term 'Children' shall refer to any person less than 15 years of age. References to very young children mean those aged four years or under and references to 'young persons' mean those aged 16 to 17 years.

Children of different ages require different levels of protection and broadcasters provide a range of programming for children, some of which may deal with more mature themes, appropriate to the lived reality and experience of older children.

5.2. Context

Harm or offence may be caused solely by the programme material itself or by virtue of the context in which programme material is viewed or heard or because the material is not in line with the audience's expectations. Broadcasters show due care for their audiences by taking into account a range of contextual factors which can influence the viewer or listener's perception of programme material and hence, the degree of harm or offence that can occur. The meaning of "context" includes but is not limited to:

- (i) the editorial content of the programme, programmes or series;
- (ii) the type of channel or service on which the programme material is broadcast;
- (iii) the time at which the programme is broadcast;
- (iv) what other programmes are scheduled before and after the programme or programmes concerned;
- (v) the likelihood of persons who are unaware of the programme content being unintentionally exposed, by their own actions, to that content;
- (vi) the likely size and composition of the potential audience and the likely expectations of the audience as to the nature of the particular programme;

- (vii) the use of audience information and guidance and the extent to which the nature of the content was brought to the attention of audience to allow a viewer or listener to make an informed choice;

5.3. Due Impartiality

"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.

5.4. On-Demand Media Service

A non-linear media service provided by a media service provider for the viewing/listening of programmes at the moment chosen by the user and at the user's individual request on the basis of a catalogue of programmes selected by the media service provider.

5.5. Vulnerable Viewers and Listeners

This may include persons with acute learning difficulties, those with a history of mental health problems, the bereaved or emotionally susceptible, persons in poor health or those in need of specialist care, persons affected by brain damage or forms of dementia, and persons who have been traumatised because of age and/or disability.

6. Family Viewing & the Watershed

6.1. General Requirement

The Authority will ensure that every broadcaster includes nothing in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or be offensive to public feeling. Programme services are free to deal appropriately with all elements of the human experience, but should avoid gratuitous offence by providing information and guidance to audiences, bearing in mind the expectations of those watching. Decisions on programme content will vary according to the time of day, nature of the channel and the likely audience. This is true not only in respect of children, but for audiences in general. Viewers and listeners are more likely to experience distress or offence as a result of strong material if they are taken unawares.

6.2. Family Viewing

Children are viewers and listeners with particular needs and it is expected that broadcasters will respond to the specific needs of children as audience members and protect them from material that is unsuitable for them. This principle encourages broadcasters to respond to the diversity of children's experience and to offer them programmes that have relevance for them. This principle further requires that children are not exposed to programming that would seriously impair their moral, mental and physical development, in particular, programmes involving pornography or gratuitous violence.

Broadcasters share a responsibility with parents and guardians for what children listen to and watch and in protecting children from exposure to inappropriate and harmful programme material. In order to ensure this, the Authority strongly encourages all broadcasters to adopt a family viewing policy which assumes a progressive decline throughout the evening in the proportion of children viewing, matched by a progression towards material more suitable for adults.

6.3. Watershed & Appropriate Scheduling of Programmes

In line with the watershed, which is set at 9pm, broadcasters are urged to schedule appropriately, taking into account, amongst other things, the nature of the programme material, the likely age range of the audience, the nature of the broadcast service, the particular programme and the time of day when children are likely to be watching or listening to programme material.

Generally speaking, programme material deemed unsuitable for children should not be shown before 9pm or after 6.30am.

Radio broadcasters must have particular regard to times when children are likely to be listening and these may include, but are not limited to the school run for example.

The 9pm watershed signals the beginning of the transition to more adult content, however the change should not be abrupt. Not all daytime or early evening programming will be suitable for very young children. The strongest material should appear later in the schedule. If sudden changes of tone are unavoidable, broadcasters should provide sufficient information, in terms of regular scheduling patterns and on-air advice, to assist parents in making viewing choices. It is imperative that such programmes are clearly signposted by giving clear information about scenes of a sexual nature, violence or the use of strong language for example (See Appendix). This is to ensure that all audiences have an appropriate expectation of the content being broadcast and are afforded that opportunity to make informed decisions about what they see and hear.

Broadcasters should take note that on-demand content which would be post-watershed on television shall only be made available in such a way as to ensure that minors will not normally hear or see such on-demand audiovisual media services (refer to Part 2 of the On-demand Audiovisual Media Services Code).

Particular care should be taken over programmes of special appeal to children which may start before the watershed but run beyond that time; and with programming during school holidays, especially during the summer season, when children are more likely to form part of the audience and may also go to bed later.

6.4. Children and Imitative Behaviour

Children can be easily influenced by what they see, hear and read. The portrayal of any dangerous or harmful behaviour easily imitated by children should be avoided and must be excluded entirely in children's programmes. This applies especially to the use, in a manner likely to cause serious injury, of knives and other offensive weapons, articles or substances. Certain household goods, such as microwaves and tumble-dryers readily accessible to children, can cause harm if misused and care should be taken with the portrayal of any such use.

Factual programmes designed for children should ensure that care is taken to discourage imitation of techniques, experiments and so forth. Additionally, broadcasters must ensure that presenters, actors and contributors who appear to be driving on television for example,

use seatbelts, fit child car seats correctly, wear crash helmets and use the correct hands-free mobile phone equipment.

Likewise, broadcasters should also express a sound knowledge of the use of safety equipment wherever practical, unless there is clear editorial justification for not doing so. This includes using eye protection for DIY activities and protective headgear and clothing for sports and leisure activities, particularly those popular with children such as cycling, skateboarding and water sports.

Films or programmes including hanging or preparations for hanging capable of easy imitation should not be scheduled to start during family viewing time unless there are strong grounds for believing that imitation is unlikely (e.g. a historic setting).

Smoking and drinking should be avoided in children's programmes, and included only when there is a strong editorial case for their inclusion. In other programmes likely to be widely seen by children and young people, smoking and drinking should be included only where context or dramatic veracity requires it. In such programmes, smoking must not be prominently featured as a normal and attractive activity. The same concerns apply and particular care is needed with any programme dealing with or involving representations of drug abuse.

6.5. Children and Violence

Children find violence which resembles real life more upsetting than violence in a fantasy context but any sequence which might unsettle younger children needs special care. Particular distress can be caused where such violence occurs in a domestic setting and scenes of serious domestic conflict whether or not accompanied by physical violence or threat, can cause fear and insecurity.

While it is accepted that stylised violence can be entertaining and often humorous in comedy and in animation, more serious representation, for example, in children's drama, should always be editorially justified and should ensure that the consequences of violence are treated appropriately.

Bad language (including profanity) should not be used in programmes made for children.

6.6. Children and the use of On-air Warnings

Under section 35 of the Act, television and radio broadcasts shall not include any programme which might seriously impair the physical, mental or moral development of minors, in particular, any programme that involves pornography or gratuitous violence.

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

Broadcasters must include either acoustic warnings before, or visual symbols throughout the programme to alert younger viewers and such on-air warning must also be incorporated during any repetition of the said programmes.

Refer to Appendix (Guidelines for Television Scheduling and the Watershed) for a greater insight into how broadcasters must apply the appropriate advisory on-air warnings and information.

7. Community Standards and Post-Watershed Content

7.1. General Requirement

There are general community standards that broadcasters must take into account when making programmes. These standards relate to a range of issues covered in programme material, including attitudes to specific language terms, the use of violent imagery and sexual content. Broadcasters are required to consider these standards with reference to the other principles of this Code.

It can be noted that community standards are ever evolving and broadcasting must be facilitated in representing the rich diversity, plurality and realities of our local community. This may sometimes involve making programmes that may cause offence to viewers and listeners but are justified for creative, editorial or other reasons.

7.2. Bad Language

Language which people may find offensive includes the use of expletives with a sexual, religious or racial association, derogatory language about minority groups and commonly understood rude gestures. The extent of offence may vary according to age, gender, race, background, beliefs and expectations brought by viewers to the work as well as the context in which the word, expression or gesture is used. For these reasons, it is impossible to set out comprehensive lists of words, expressions or gestures which are acceptable at each category.

There is no absolute ban on the use of bad language. Bad language must, however, be defensible in terms of context and scheduling with warnings where appropriate. The most offensive language must not be used before the watershed and bad language of any sort must not be a frequent feature before then.

Bad language (including profanity), should not be used in programmes specially designed for children.

7.3. Sex and Nudity

Many great fiction and drama have been concerned with love and passion which can shock and disturb. Popular entertainment and comedy have always relied to some extent on sexual innuendo and suggestive behaviour but gratuitous offence should be avoided.

Careful consideration should be given to nudity before the watershed. Nudity with no sexual context is, in principle, acceptable at all classification levels but should not generally occur more than occasionally before or straight after the watershed. Nudity with a sexual context however, carries a higher classification and is not considered suitable before the watershed.

Representations of sexual intercourse should not occur before the watershed unless there is a serious educational purpose. Any portrayal of sexual behaviour must be defensible in context. If included before the watershed it must be appropriately limited and inexplicit.

7.4. Violence

The real world contains violence in many forms. It is reasonable for television to reflect this but it is clear that the portrayal of violence, whether physical, verbal or psychological, can upset, disturb and offend and can be accused of desensitising viewers, making them unduly fearful or to another extent even encourage imitation. These are legitimate public concerns requiring careful consideration whenever violence, real or simulated, is to be shown. The treatment of violence must always be appropriate to the context, scheduling, channel and above all, audience expectations.

(a) Offensive Violence

At the simplest level, some portrayed acts of violence may go beyond the bounds of what is tolerable in that they could be classified as material, which is likely to be offensive to public feeling.

Broadcasters must consider the editorial justification carefully, including the context of the violence portrayed, the time of the broadcast, the on-air warning(s) provided and the likely audience. There can be no defence of violence shown or heard for its own sake, or for the gratuitous presentation of sadistic practices. Viewers are most likely to be offended by explicit images of distress and injury, and of blood, particularly if they occur suddenly or unexpectedly.

(b) Psychological Harm to Young and Vulnerable Viewers

There is portrayed violence which is potentially so disturbing that it might be psychologically harmful, particularly for young or emotionally insecure viewers. Research evidence shows that the socially or emotionally insecure individual, particularly if adolescent, is especially vulnerable. The susceptibilities of this minority must be balanced against the rights of the more robust majority. Responsible scheduling and appropriate content advice to viewers are both particularly relevant here.

(c) Imitable Violence

Broadcasters must take into account any detailed portrayal of criminal and violent techniques, and glamorisation of easily accessible weapons, such as knives. Special consideration must prevail when scheduling works which portray anti-social behaviour (e.g. bullying). Portrayals of dangerous behaviour, capable of easy imitation, must always be justified by the dramatic and editorial requirements of the programme.

Works which, taken as a whole, actively promote illegal behaviour should be avoided. Portrayals of potentially dangerous behaviour (especially relating to hanging, suicide and self-harm) which children and young people may potentially copy should be restricted.

(d) The Cumulative Effects of Violence

The regular and recurrent spectacle of violence may lead viewers to become less sensitive to violence or to overestimate the level of violence in the real world. Broadcasters must take into account the potential cumulative effect of violent material.

(e) Sexual Violence

Scenes of rape, or other non-consensual sex, especially where there is graphic physical detail or the action is to any degree prolonged, require great care and consideration and must be categorised as post-watershed content.

7.5. Violence in News and Other Programmes

News and current affairs programmes are subject, like any other programming, to the family viewing requirements listed in Section 3 above. Nonetheless, this does not restrict the range of subjects covered in any news bulletin or programme, or imply that some news events may not be properly covered before the watershed. Instead, it requires that all material is

presented in a manner that takes account of the likely composition of the audience, and that appropriate on-air warnings are provided.

Special consideration should be given to the possible effect of coverage of violent events upon local viewers in Gibraltar (or other countries where the programme is seen) for whom it might cause particular anxiety. Nothing shown should encourage or incite to crime or lead to disorder.

Whether in news, current affairs or other programmes, actuality footage of executions or other scenes in which people are clearly seen being killed or about to die must be evaded, unless exceptional justification may be provided.

7.6. Suicide and Suicide Attempts

Common sense dictates that the subject of suicide be handled with care and discretion, particularly in popular drama serials. There should be no more detailed demonstration of the means or method of suicide than is justified by the context, scheduling and likely audience for the programme. Where appropriate, professional advice or guidance should be sought from the relevant organisations.

7.7. Ethnic Minorities

Programmes intended to stir up racial hatred should not be transmitted. Where appropriate, schedules should give a fair reflection of the contribution of all races to society. Racist terms must be avoided. Insensitive comments or stereotyped portrayal may cause offence and the inclusion of same is acceptable only where it can be justified within the context of the programme.

Care should be taken of the possible effect upon the racial minority concerned, as well as the population as a whole, and of changes in public attitudes to what is, and is not, acceptable.

7.8. Hypnotism

Care needs to be taken to minimise the risk of hypnosis being induced in susceptible viewers. In particular, the hypnotist must not be shown performing straight to camera.

7.9. The Occult and Psychic Practices

Actual demonstrations of exorcisms and occult practices such as those involving supposed contact with spirits or the dead, are not acceptable in factual programming except in the context of a legitimate investigation. They should not, in any case, be shown before the watershed or when large numbers of children are likely to be watching.

Horoscopes, palmistry and similar 'psychic' practices are only acceptable where they are presented as entertainment or are the subject of legitimate investigation. They should not include specific advice to particular contributors/viewers about health, medical matters or personal finance.

Fiction programmes containing 'psychic' phenomena should not normally be scheduled before the watershed, although a fantasy setting, for example, may justify such scheduling.

8. Respect for Persons and Groups in Society

8.1. General Requirement

The manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity. Robust debate is permissible as is the challenging of assumptions but programme material shall not stigmatise, support or condone discrimination or incite hatred against persons or groups in society in particular on the basis of age, gender, marital status, family status, sexual orientation, disability, race, nationality, ethnicity or religion.

Consideration should be given, in particular, to the treatment of vulnerable minorities, bearing in mind the likely effects of both misrepresentation and under-representation.

8.2. People with Disabilities

There is a danger of offence in the use of humour based on physical, mental or sensory disability, even where no malice is present. It is important that broadcasters recognise that the use of terms, references and images that could be considered offensive to people with disabilities, as are the associated colloquial terms of abuse aimed at said group, requires editorial justification for their inclusion in programming.

It should be possible for people with disabilities to be included in programmes of all kinds.

9. Information Announcements and On-Air Warnings

9.1. General Requirement

Labelling, classification details and other information announcements have a helpful role in enabling viewers to make appropriate choices at all times and avoid clouding audience expectations.

Broadcasters should consider whether any elements of programming might disturb viewers, in particular younger children. Appropriate information should be provided at the start of any programme, or news report, which might disturb younger children.

If an on-demand programme service contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, the material must be made available in a manner which secures that such persons will not normally see or hear it.

Warnings about issues of taste, decency and potential offence are unlikely to be appropriate before the watershed although exceptional circumstances may arise, and may be approved during important news reports.

Later in the evening, clear and specific warnings should be employed where there is the likelihood that some viewers may find the programme disturbing or offensive. This does not, in any way, diminish the broadcaster's responsibility for sensitive scheduling of programmes to maintain the risk of offence to a minimum.

Refer to Appendix (Guidelines for Television Scheduling and the Watershed) for a greater insight into how broadcasters must apply the said advisory warnings and information.

9.2. Feature Films and Other Acquired Material

Where a British Board of Film Classification (BBFC) exists for the version of a film or programme proposed for transmission, it should be used as a guide to scheduling. A BBFC video classification, rather than the cinema classification, should always be the guide where one exists.

The following basic rules apply:

- (a) A 'U' rated version can be transmitted at any time, on any service.
- (b) A 'PG' rated version can be transmitted at any time, on any service.
- (c) A '12' rated version should NOT normally start before 8pm on any service.
- (d) A '15' rated version should NOT normally start before 9pm, on any service.
- (e) A '18' rated version should NOT start before 10pm on any service.
- (f) A 'R18' version should NOT be transmitted at any time.
- (g) Any version refused a BBFC certification should NOT be transmitted at any time.

9.3. Trailers and Programme Promotions

Viewers often have no choice but to see promotional material and advertisements, therefore special care is required when scheduling. All trailers and promotions shown before 9pm must comply with advice provided with regards family viewing and the watershed.

10. Brief Imaging & Subliminal Messages

10.1. General Requirement

Broadcasters should ensure that programmes do not include any techniques which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to viewers or listeners, or otherwise influencing their minds, without their being aware, or fully aware, of what has occurred.

10.2. Programme Practice

Images of very brief duration are unlikely to be in conflict with this requirement unless there is some intention of covertly influencing the minds of viewers, for example for a commercial or political purpose. A very brief image used in context and as part of a straightforward message will probably not offend against the requirement. In such circumstances the viewer will know exactly what the message is that is being conveyed and how it is intended to influence their mind.

However, where a very brief image is used out of context and relates to something entirely different from what precedes or follows it, the duration of the image should be sufficiently long to be clearly discernible and understandable.

10.3. Use of Flashing Images and Regular Patterns

Flashing lights and certain types of regular visual patterns can cause problems for some viewers who have photo-sensitive epilepsy and many may be caught unawares of their susceptibility to such images.

Care must be taken to minimise these risks in all programmes, but especially those where young people are likely to be watching in significant numbers. This might mean cutting or amending certain scenes, sequences or image transitions.

It can be noted that there might be difficulties in minimising the effects in some types of live coverage reports or from acquired material from a third party. Nonetheless, where there is likely to be significant risk, viewers should be given an appropriate warning at the start of the programme or programme item.

11. Respect for Privacy and Protection of Public Interest

11.1. General Requirement

All individuals have a right to privacy. Broadcasters shall respect the privacy of the individual and ensure that it is not unreasonably encroached upon either in the means employed to make the programme or in the programme material broadcast.

This principle also recognises that the right to privacy is not absolute. The privacy to which an individual is entitled is that which is reasonable in all of the circumstances. The right to privacy must be balanced against other rights and considerations, such as the public interest, freedom of expression, the rights of others, the requirements of public order and the common good.

The principles of the right to respect for private and family life and the right to freedom of expression are reflected in Article 8 and Article 10 of the European Convention on Human Rights. As a public authority, the GRA will seek to ensure that the guidance given throughout this Code is consistent with Convention principles.

Article 8 - Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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

Article 10 - Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

11.2. The Public Interest

There will be occasions when an individual's right to respect for private and family life, or a broadcaster's right to freedom of expression, may be restricted in the public interest. Any act that relies on a defence of public interest must be proportional to the actual interest served. This will be a balancing exercise which will depend on the individual circumstances of each case. Where, for example, there is a significant intrusion into an individual's private affairs, particularly where that individual is innocent of any offence and/or where there is a significant risk of distress, an important public interest is likely to be required.

Examples of a public interest which may justify an intrusion into an individual's privacy include: (i) detecting or exposing crime or a serious misdemeanour; (ii) protecting public health or safety; (iii) preventing the public from being misled by some statement or action of an individual or organisation; (iv) exposing significant incompetence in public office. Where freedom of expression is to be restricted, examples of public interest include ensuring the fair conduct of judicial proceedings or protecting public morals.

11.3. Filming in Public Places

When coverage is being given to events in public places, editors and producers must satisfy themselves that words spoken or action taken by individuals are sufficiently in the public domain to justify their being communicated to the television audience without express permission being sought from the individuals concerned. This applies in particular to material from closed-circuit television cameras of which the individual is unlikely to have been aware.

When permission is received to film or record material in an institution, such as a hospital, office, or shop, which has regular dealings with the public, but which would not normally be accessible to cameras without such permission, it is very likely that the material will include shots of individuals who are themselves incidental, rather than central, figures in the programme. The question arises how far and in what conditions such people retain a right to refuse to allow material in which they appear to be broadcast. As a general rule, no obligation

to seek agreement arises when the appearance of the persons shown is incidental and they are clearly random and anonymous members of the general public.

When their appearance is not incidental, where they are not random and anonymous or where, though unnamed, they are shown in particularly sensitive situations (for example as psychiatric or intensive care patients), individual written consents to use this material should be sought. Any exceptions should be justifiable in the public interest.

When by reason of age, disability or infirmity a person is not in a position either to give or to withhold agreement, permission to use the material should be sought from the next of kin or from the person responsible for their care, unless a decision to proceed without such permission can be justified as a matter of important public interest.

11.4. Recordings Involving Police Operations

When permission is given to record police or similar official operations of any kind (e.g. Customs) involving members of the public in other than public places (e.g. visits to homes under warrant, raids on licensed premises, etc.), it is the responsibility of the producer to make his position known to the members of the public involved, and to identify the broadcaster for whom he or she is working as soon as practically possible. If asked to leave the premises or stop recording in said premises by the owner or by police, he/she should normally comply. In such cases it must be recognised that there may have been a trespass. In any event, reference should be made before transmission to the broadcaster's most senior programme executive or the designated alternate, who will need to be convinced that broadcasting any of the material serves the public interest.

Programme-makers should also make reasonable endeavours either to inform persons in advance of transmission of any material in which they are prominently featured, or disguise their identities in any material broadcast, where not to do so would be unfair. In cases where those recorded have been found guilty of the offence which gave rise to the raid it may not be necessary to inform them of the transmission or disguise their identities. When in doubt, broadcasters should take legal advice.

Filming or recording of private individuals, without their consent and in their own home, is likely to constitute a breach of Article 8(1) of the European Convention on Human Rights, and therefore may have to be justified by reference to the provisions of Article 8(2) of the Convention.

A broadcaster must also be aware of the reporting restrictions on pre-trial investigations into an alleged criminal offence in Gibraltar where persons under the age of 18 are involved in the offence.

11.5. Bereavement and Distress

The individual's right to privacy at times of bereavement or distress must be respected. Care should be taken to ensure that sources of information are the most reliable and verifiable which are available at the time. Due regard must be afforded to the impact that coverage, and repeated coverage, of death may have on the families and friends of the deceased.

Scenes of human suffering and distress are often an integral part of any news report of the effects of natural disaster, accident or human violence, and may be a proper subject for direct portrayal rather than indirect reporting. Nevertheless, before presenting such scenes, producers need to weigh out the wish to serve the needs of truth and the desire for compassion against the risk of sensationalism and the possibility of an unwarranted invasion of privacy.

11.6. Fairness in Revisiting Past Events

In non-news programmes concerning a natural disaster, accident, human violence or a serious crime, producers should assess the likelihood of personal distress arising from the programme. Where practicable producers must contact any central figures involved, including members of the immediate family of any who have died, and give due consideration to their perspectives.

11.7. Secret Filming and Recording

The use of hidden microphones and cameras for the filming or recording of individuals who are unaware of it is acceptable only when it is clear that the material so acquired is essential to establish the credibility and authority of a story where this cannot, or is unlikely to be achieved using 'open' filming or recording techniques, and where the story itself is equally clearly of important public interest.

When, in the considered judgement of the producer, such a case arises, he or she must, wherever practicable, obtain the explicit consent of the broadcaster's most senior programme executive or the designated alternate before such material is recorded. Consent is required again before any material obtained by secret recording is transmitted. This applies whether the material was produced or commissioned by the broadcaster or acquired from an external source. Broadcasters must ensure full records are kept of the consultation process followed

in each case and of any material recorded and transmitted. The Authority may ask to see such records which must be retained for 40 days after transmission.

The requirements in the preceding paragraph also apply to the secret recording of telephone conversations where these are intended for transmission.

11.8. Fairness in the Conduct of Interviews

Interviewees should be made adequately aware of the format, subject matter and purpose of the programme to which they have been invited to contribute, and the way in which their contribution is likely to be used. Written confirmation should be provided if requested and interviewees should also be informed of any significant changes to the programme as it develops, which might reasonably affect their original consent to participate, and cause material unfairness.

11.9. Interview Edits

Fairness and impartiality apply equally to the editing of interviews as to their conduct. Editing to shorten recorded interviews must not distort or misrepresent the known views of the interviewee.

Interviews held on library tapes should be checked before use to see whether the views expressed are still valid, and where necessary captioned to show the date they were originally recorded.

11.10. Impromptu Interviews

Impromptu interviews with public figures and people in the news are a normal and usually unproblematic part of newsgathering. However, interviews sought on private property without the subject's prior agreement should not be included in a programme unless they have a public interest purpose. The same consideration applies to restaurants, churches and other places where the subject would reasonably expect personal privacy.

Interviews in which criminal or other serious allegations are put to individuals should not be attempted without prior warning unless a previous request has been refused or received no response, or where there is good reason for not making a prior approach. Particular care needs to be taken where the person approached is not the subject of the allegations, for

example a relative, friend or associate, to avoid the risk of unwarranted invasion of their privacy.

11.11. Set-up Situations

Set-up situations where members of the public or celebrities are featured without their knowledge or without prior warning are an established part of some entertainment programmes. Nevertheless, the use of such situations should always be carefully considered, and safeguards used to prevent unwarranted invasions of privacy.

Where material is recorded, the consent of the subjects should be obtained before transmission. In live situations, particular care should be taken to avoid offence to the individuals concerned. Requests to leave private property or stop recording should be complied with promptly.

A different kind of set-up situation is one where the subject consents to being recorded for a different purpose from that covertly intended by the programme makers. With unsuspecting members of the public, the use of such material without the subject's permission can only be justified if it is necessary in order to make an important point of public interest. With celebrities and those in the public eye, material should not be used without similar public interest justification if it is likely to result in unjustified public ridicule or personal distress. In all cases, consent to proceed should, where practicable, be given before recording by the broadcaster's most senior programme executive or the designated alternative. Such consent should be sought again before transmission.

11.12. Involvement of Children in Programmes

Children are involved in programmes in a number of ways and programme makers must have due regard to their welfare at all times. Particular care should be taken to avoid causing any distress or alarm to children involved in programmes. Under no circumstances may children be put at physical or moral risk, for example in factual programmes concerning criminal activity.

Any interviewing of children requires care. The consent of a parent or guardian, as well as the child should normally be sought beforehand. Children should not be questioned to elicit views on confidential family matters, nor asked for expressions of opinion on matters likely to be beyond their judgement. Programme makers should consider consulting appropriate professionals if they are in any doubt about a child's capacity to understand or express him or herself.

11.13. Reporting of Sexual and Other Offences Involving Children.

Where children are or have been involved in police enquiries or court proceedings concerning sexual offences, special care needs to be taken to avoid the so called *'jigsaw effect'*. This happens when several reports in different media give different details of a case which, when pieced together, reveal the identity of a child involved.

Particular care needs to be taken when reporting sexual crimes within a family. Naming the accused and describing the crime can have the effect of identifying the victim. Giving information about an accused person's address may contribute to the jigsaw which identifies the victim.

The Authority expects broadcasters to abide by the principle that they may name the accused/convicted person (provided this is not a child) and not to name the victim. The offence should be described as 'a serious sexual offence'. If the accused and victim are related the victim should be described as 'a young woman' or 'a child' and so on.

When covering any pre-trial investigation into an alleged criminal offence in Gibraltar, broadcasters should pay particular regard to the potentially vulnerable position of any person under 18 involved as a witness or victim, before broadcasting their name, address, identity of school or other educational establishment, place of work, or any still or moving picture of this person.

11.14. Simulated News Bulletins and Reconstructions

Any simulation of a television news bulletin or news flash to be included in any other programme should either be subtitled or produced in such a way that there can be no reasonable possibility that it could be taken to be an actual news bulletin.

Furthermore, dramatised 'reconstructions' in factual programmes is a legitimate means of obtaining greater authenticity, so long as it does not distort reality. Whenever a reconstruction is used in a documentary, current affairs or news programme it should accurately reflect the known facts and be labelled unless there is no possibility of viewers being misled.

11.15. Requests for Untransmitted Material

Broadcasters will not voluntarily allow access to untransmitted material when to do so would endanger people who work for the broadcaster or when it would make it more difficult to gather such material in the future. When approached for access to such material, programme makers must always refer requests to the broadcaster's most senior programme executive or the designated alternate. Most requests for untransmitted material are likely to come from the police.

This policy is based on two main considerations: the proper protection of the broadcaster's staff, and the broadcaster's continuing ability to record in dangerous situations (civil disorder, riots, wars and other conflicts) in the public interest.

In many such situations the media can operate only by virtue of being neutral observers. All these situations may involve danger for journalists and others. The danger may increase if those being recorded regard the programme makers as agents of authority who will automatically surrender any material they have recorded. Broadcasters are not above the law, but it is important that in such situations that they are, and are seen to be, independent of it.

In addition, there are wider considerations of editorial integrity. This could be damaged if other organisations and individuals are allowed access to untransmitted material for their own use.

12. Reporting on Terrorism, Crime and Anti-Social Behaviour

12.1. General Requirement

Any programme item which on any reasonable judgement would be said to encourage or incite crime or to lead to disorder is unacceptable. Particular care is required with a programme which carries the views of people or organisations who use or advocate the use of violence or other criminal activity within Gibraltar or abroad to attain political or other ends. Programmes must not give the impression of condoning criminal activity, even (or especially) where its seriousness may not be accepted or recognised in every section of society.

12.2. Payments

No payment should be made for an interview about his or her crimes, to a criminal whose sentence has not yet been completed.

Former criminals should not be paid for interviews about their crimes unless an important public interest is served.

No payment should be made to individuals, convicted or otherwise, for interviews about acts committed by them of a seriously anti-social nature, unless an important public interest is served. No commitment should be made to pay any witness in a criminal trial before a verdict has been reached.

12.3. Demonstration of Criminal Techniques

In programmes dealing with criminal activities, whether in fictional or documentary form, there may be a conflict between the demands of realism and the risk of unintentionally assisting the criminally inclined. Careful thought should be given and, where appropriate, advice taken from the police before items are included which give information about criminal methods and techniques. Similar caution is needed in the representation of police techniques of crime prevention and detection.

12.4. Establishing a Relationship with the Police

Broadcasters should not be seen as an agent, rather than an independent upholder, of law and order. Where programme-makers are invited to record official police operations (e.g. a

drugs raid) care should be taken to ensure that editorial control remains with the programme company and that any recording of members of the public is undertaken with due regard to the requirements for privacy.

12.5. Presence of a Camera Crew at Scenes of Public Dismay

The aim of any public meeting or demonstration is to attract public attention, but there is always the possibility that the presence of television cameras will, however unwittingly, encourage incidents that would not otherwise have occurred.

If coverage is recorded, incidents known to be 'manufactured' should be excluded or revealed for what they are. Where coverage is live every effort must be made to place what is being seen and heard in context, so that viewers can properly evaluate the significance of any activities that have been manufactured for the television cameras.

12.6. Smoking and Drinking

Tobacco and alcohol can constitute health risks. It is therefore desirable that programmes should generally not include smoking and drinking unless the context or dramatic veracity requires it.

(Tobacco advertising is specifically banned from television and radio. Please refer to the Audiovisual Commercial Communications Code).

12.7. Drugs and Solvent Abuse

Care needs to be taken to avoid any impression that illegal drugs are an acceptable feature of modern society, particularly in programmes of special appeal to children and young people. The same caution should be applied to solvent abuse, and detailed demonstrations of methods of illegal drug-taking that could easily be imitated should be avoided.

Drug and solvent abuse should not be shown in such a way as to appear problem-free or glamorous.

13. Religion

13.1. General requirement

This section applies both to programmes specifically categorised as religious and, where appropriate, to general programmes which deal with religious matters.

Broadcasters are required to exercise the proper degree of responsibility with respect to the content of religious programmes. In particular such programmes must not involve:

- (i) Any improper exploitation of any susceptibilities of those watching the programmes;
- (ii) Any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.

13.2. Misrepresentation of Religious Beliefs

Every attempt must be made to ensure that the belief and practice of religious groups are not misrepresented, and that programmes about religion are accurate and fair. Programmes and follow-up material to programmes must not denigrate others' beliefs.

Religious belief and practice are central to many people's lives and capable of evoking strong passions and emotions. To avoid unintentional offence, all broadcasters should be aware of these sensitivities.

13.3. Appeals for Money

Programmes may not include appeals for money by organisations whose aims are wholly or mainly religious.

14. Appendix – Guidelines for Television Scheduling and the Watershed

General Rules

These guidelines have been created to assist the public service broadcaster, and other sources alike, in interpreting and properly applying the rules and conditions concerning the watershed in Gibraltar.

The Authority encourages all broadcasters to balance their right to broadcast innovative and challenging content, appropriate to all target audiences, with the responsibility to protect the vulnerable and avoid unjustifiable offence. It is of utmost importance that all broadcasters, particularly our public service broadcaster, are sensitive to, and adhere to generally accepted standards and audience expectations of the content aired, especially in relation to the protection of minors.

As a rule of thumb, all broadcasters must consider the following:

1. All programmes broadcast on television between 6:30am and 9pm must be suitable for a general audience, including children.
2. The broadcaster must apply generally accepted standards so as to provide adequate protection for members of the public from the inclusion of offensive or harmful material.
3. The broadcaster must not, at any given time, broadcast material that might seriously impair the physical, mental or moral development of children and young people.
4. The broadcaster must ensure that all viewers have clear, concise information on which to judge whether the content is suitable for themselves or their children.

Appropriate Scheduling

5. The Code acknowledges that there are a number of factors which determine whether a programme is appropriately scheduled or not. These factors include:
 - The nature of the content, for example whether it's frightening, distressing, gory, sexually explicit, contains strong language;
 - The nature of the particular programme, for example it might well be appropriate to schedule a futuristic, science-fiction series containing comic book violence at a time when large numbers of young children are watching but not to schedule a soap opera containing domestic violence which is more realistic and 'close to home';
 - The likely number and age range of children watching, taking into account school time, weekends and holidays, for example a discussion about sexual matters that might be inappropriate in a breakfast or teatime show, when large numbers of young

children are likely to be watching, might well be defensible during term time, in a mid-morning or mid-afternoon discussion programme, when most children are at school;

- The start and finish time of the programme (e.g. a film or drama series scheduled to start at 8pm and end at 9.30pm), which had generally mild content throughout until the final scene or which contained very graphic violence. The latter would be unlikely to be appropriately scheduled. Although this scene would not be transmitted until after the watershed, and because the film started well before, it would be likely to have attracted a significant number of younger viewers, including children, who would stay watching the film until its conclusion;
- The likely expectations of the audience for a channel at a particular time on a particular day (e.g. to schedule a drama about teenage sexuality in a slot which had been normally reserved for a children's programme aimed at very young children, may surprise and upset audiences);
- Particular care and attention is required when scheduling trailers and post watershed programmes which are repeated before the watershed and these should be carefully edited for a pre-watershed audience.

Family Viewing Programmes

6. Broadcasters should take particular care when broadcasting pre-watershed programmes broadly identified as "family shows" – whether live or pre-recorded. While the Authority acknowledges these programmes are not made for children, they nevertheless tend to attract a significant child audience and therefore broadcasters should ensure that the content is suitable for family viewing throughout the duration of the programme. Particular caution should be applied should the programme continue past the watershed as the family audience is still likely to remain viewing the programme.
7. In the entertainment and talent genres, particular areas of concern include the sexualised clothing and dance routines of performers and/or guest artistes.
8. Careful consideration should also be given to any repeats of the content during the daytime when it is likely children will be watching, some unaccompanied by a parent or other adult.

Pre-watershed to Post-watershed Transition

9. Broadcasters should take particular care to ensure that material scheduled to start before, but continue past, 9pm or 6:30am does not abruptly become unsuitable.
10. Content that commences after the watershed should observe a smooth transition to more adult content. It should not commence with the strongest material.

Flagging up Content Pre-Watershed

11. There will be occasions where some content which is not unsuitable for children generally, may nevertheless still cause distress to some and should be flagged up to viewers, for example younger children may be upset by scenes of an injured animal having to be put down or scenes in a daytime programme showing a surgical procedure.

On-Air Warnings

12. On-air advice warnings and/or information about content likely to cause offence or distress, inform audience expectations and afford the viewer or listener time to ascertain whether the said programme material is justified or not. Using them allows viewers to make safe, informed decisions about the content they choose for themselves and their family.
13. On-air warnings should be displayed visually, incorporating a textual message (see 14), where necessary, or by using the advisory symbols (see 17). Likewise, an acoustic sound/tone may also feature as an on-air warning in addition to the textual message and/or advisory symbol.
14. On-air word-based warnings should appear for a minimum of 5 seconds in the centered-middle or centered-bottom section of the screen. Text should be white on a dark/black background setting. This textual message could also be narrated as it appears on screen to cater for the visually impaired audience.
15. On-air word-based warnings must be broadcast before the said programme starts or within the programme's opening sequence. The following text examples can be adapted and applied:
 - This show contains scenes that some viewers may find disturbing
 - Viewer discretion advised
 - Intended for mature audiences only

- Contains scenes of a sexual nature
- This programme contains strong language
- This programme contains pervasive language
- This programme contains strong, bloody violence which some viewers may find distressing
- The opinions expressed in this show do not necessarily reflect the views of the broadcaster
- Parental Advisory: explicit content
- The following programme is unsuitable for children

16. When used, advisory symbols must appear for a minimum duration of 10 seconds on the top, far right corner of the screen so they can be easily identified by the viewers.

17. Examples of advisory symbols:



TV-U

Programmes suitable for all audiences. 'TV-U' programmes should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror. Such programmes can be broadcast at any time, on any service.



TV-PG

Programmes suitable for general viewing although some scenes may be unsuitable for younger children. 'TV-PG' programmes should not unsettle a child aged eight years or older. Such programmes can be broadcast at any time, on any service.



TV-12

Programmes suitable for viewers aged 12 years and over and should not normally start before 8pm on any service.



TV-15

Programmes suitable for viewers aged 15 years and over and should not normally start before 9pm on any service.



TV-18

Programmes suitable only for adults and should not normally start before 10pm on any service.

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