

MAY 2011 EDITION

**FREE-TO-AIR
TELEVISION
CODE OF BROADCASTING
PRACTICE**

**RĀRANGI
TIKANGA PĀPĀHO
MŌ TE POUAKA
WHAKAATA KORE-UTU
KI TE KĀINGA**

ENGLISH VERSION

CONTACTS

Online complaints can be made at
www.bsa.govt.nz

TVNZ

PO Box 3819
AUCKLAND 1010
Phone: (09) 916 7000
www.tvnz.co.nz

Māori Television

PO Box 113-017
Newmarket
AUCKLAND 1149
Phone: (09) 539 7000
www.maoritelevision.com

TV3 and FOUR

Private Bag 92 624
Symonds Street
AUCKLAND
Phone: (09) 928 9000
www.tv3.co.nz

Prime Television

SKY Television
PO Box 9059
Newmarket
AUCKLAND
Freephone: 0800 759 759
www.primetv.co.nz

ThinkTV

PO Box 1298
Shortland Street
AUCKLAND 1140
Phone: (09) 280 3800
www.thinktv.co.nz

Broadcasting Standards Authority

PO Box 9213
WELLINGTON 6141
Phone: (04) 382 9508
Freephone: 0800 366 996
Fax: (04) 382 9543
Email: info@bsa.govt.nz
www.bsa.govt.nz

*For details of other free to air broadcasters
please visit the BSA website.*

INTRODUCTION

The Broadcasting Act 1989 requires every broadcaster to be responsible for maintaining in its programmes and their presentation, standards which are consistent with:

- a) The observance of good taste and decency
- b) The maintenance of law and order
- c) The privacy of the individual
- d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view, either in the same programme or in other programmes within the period of current interest
- e) Any approved Code of Broadcasting Practice applied to programmes.

The Broadcasting Standards Authority (BSA) is responsible for administering the standards regime, determining formal complaints and encouraging broadcasters to develop and observe appropriate Codes of Broadcasting Practice.

This Code, the Free-to-Air Television Code of Broadcasting Practice, has been prepared by the New Zealand Television Broadcasters' Council on behalf of TV One, TV2, TV3, C4, Māori Television and other free-to-air services.

In the application of this Code, the ethic of social responsibility is recognised both by broadcasters and the Authority.

Under section 14 of the New Zealand Bill of Rights Act 1990, there is a right to freedom of expression. When the Authority makes decisions on complaints, it will consider and apply the New Zealand Bill of Rights Act.

Broadcasters and the BSA also acknowledge that New Zealand is party to the United Nations Convention on the Rights of the Child.

About This Code

The requirements of the Code are set out in each standard. Each standard has a number of associated guidelines. These guidelines do not, of themselves, impose requirements on a broadcaster. They are included to provide interpretative assistance for broadcasters and the

public, and indicate factors that the broadcaster should consider when assessing whether a programme complies with a particular standard. A programme which does not adhere to the letter of a particular guideline may not be in breach, depending on the programme's overall compliance with the relevant standard.

REVISED AND ISSUED BY THE BSA TO TAKE EFFECT FROM 1 JULY 2009.

GROUNDS FOR A FORMAL COMPLAINT

Formal complaints allege that the broadcaster has failed in its responsibility to maintain one or more of the broadcasting standards set out in Standards 1 to 11 below:

STANDARD 1 – Good Taste and Decency

STANDARD 2 – Law and Order

STANDARD 3 – Privacy

**STANDARD 4 – Controversial Issues –
 Viewpoints**

STANDARD 5 – Accuracy

STANDARD 6 – Fairness

**STANDARD 7 – Discrimination and
 Denigration**

STANDARD 8 – Responsible Programming

STANDARD 9 – Children's Interests

STANDARD 10 – Violence

STANDARD 11 – Liquor

How To Make a Formal Complaint

Formal complaints must be:

- made in writing; and
- lodged with the broadcaster concerned within 20 working days of the broadcast.

The one exception is an allegation of breach of privacy (Standard 3) which may be made directly to the BSA without first being referred to the broadcaster. This can be done through the BSA website.

Formal complaints should specify:

- the name of the programme
- the date and time of broadcast
- the standard(s) alleged to have been breached and the reasons why.

Free-to-Air broadcasters are also required to comply with the Programme Code covering Election Programmes such as Opening and Closing Addresses and Advertisements. A copy of this Code is on the BSA's website and complaints under this Code are made direct to the BSA.

Apart from programme promotions and broadcast political advertising, the BSA has no jurisdiction over advertisements. Complaints about advertisements should be made to the Advertising Standards Complaints Board (www.asa.co.nz).

Copies of all broadcasting codes are available from the BSA and from its website.

THE FREE-TO-AIR TELEVISION CODE

THE STANDARDS

The following standards apply to free-to-air television programmes broadcast in New Zealand.

STANDARD 1 – Good Taste and Decency

Broadcasters should observe standards of good taste and decency.

Guidelines

- 1a** Broadcasters will take into account current norms of good taste and decency bearing in mind the context in which any content occurs and the wider context of the broadcast e.g. programme classification, target audience, type of programme and use of warnings etc.
- 1b** The use of visual and verbal warnings should be considered when content is likely to disturb or offend a significant number of viewers except in the case of news and current affairs, where verbal warnings only will be considered. Warnings should be specific in nature, while avoiding detail which may itself distress or offend viewers.

STANDARD 2 – Law and Order

Broadcasters should observe standards consistent with the maintenance of law and order.

Guidelines

- 2a** Caution should be exercised in broadcasting items which explain the techniques of crime in a manner which invites imitation.
- 2b** Factual programmes should not glamorise criminal activity or condone the actions of criminals.
- 2c** Except where justified in the public interest, ingenious devices or unfamiliar methods for inflicting pain, injury or death should not be shown.
- 2d** The realistic portrayal of anti-social behaviour, including violent and serious crime and the abuse of liquor and drugs, should not be shown in a way that glamorises these activities.
- 2e** Programmes should not glamorise suicide and should not give detailed descriptions about methods of suicide.

STANDARD 3 – Privacy

Broadcasters should maintain standards consistent with the privacy of the individual.

Guideline

- 3a** When considering an individual's privacy, broadcasters shall apply the privacy principles developed by the Broadcasting Standards Authority (see Appendix 2).

STANDARD 4 – Controversial Issues – Viewpoints

When discussing controversial issues of public importance in news, current affairs or factual programmes, broadcasters should make reasonable efforts, or give reasonable opportunities, to present significant points of view either in the same programme or in other programmes within the period of current interest.

Guidelines

- 4a** No set formula can be advanced for the allocation of time to interested parties on controversial issues of public importance. Significant viewpoints should be presented fairly in the context of the programme. This can only be done by judging each case on its merits.
- 4b** The assessment of whether a reasonable range of views has been presented takes account of some or all of the following:
- the programme introduction;
 - whether the programme approaches a topic from a particular perspective (e.g. authorial documentaries, public access and advocacy programmes);
 - whether viewers could reasonably be expected to be aware of views expressed in other coverage.

STANDARD 5 – Accuracy

Broadcasters should make reasonable efforts to ensure that news, current affairs and factual programming:

- is accurate in relation to all material points of fact and/or
- does not mislead.

Guidelines

- 5a** The accuracy standard does not apply to statements which are clearly distinguishable as analysis, comment or opinion.
- 5b** In the event that a material error of fact has occurred, broadcasters should correct it at the earliest appropriate opportunity.
- 5c** News must be impartial.

STANDARD 6 – Fairness

Broadcasters should deal fairly with any person or organisation taking part or referred to.

Guidelines

- 6a** A consideration of what is fair will depend upon the genre of the programme (e.g. factual, dramatic, comedic or satirical programmes).
- 6b** Broadcasters should exercise care in editing programme material to ensure that the extracts used are not a distortion of the original event or the overall views expressed.

- 6c** Except as justified in the public interest:
- contributors and participants should be informed of the nature of their participation;
 - programme makers should not obtain information or gather pictures through misrepresentation;
 - broadcasters should avoid causing unwarranted distress to surviving family members by showing footage of bodies or human remains.
- 6d** Broadcasters should respect the right of individuals to express their own opinions.
- 6e** Individuals and particularly children and young people, taking part or referred to should not be exploited, humiliated or unfairly identified.
- 6f** Where the programme deals with distressing circumstances (e.g. grief and bereavement) discretion and sensitivity are expected.

STANDARD 7 – Discrimination and Denigration

Broadcasters should not encourage discrimination against, or denigration of, any section of the community on account of sex, sexual orientation, race, age, disability, occupational status, or as a consequence of legitimate expression of religion, culture or political belief.

Guidelines

- 7a** This standard is not intended to prevent the broadcast of material that is:
- factual, or
 - the expression of genuinely held opinion in news, current affairs or other factual programmes, or
 - legitimate humour, drama or satire.

STANDARD 8 – Responsible Programming

Broadcasters should ensure programmes:

- are appropriately classified;
- display programme classification information;
- adhere to timebands in accordance with Appendix 1;
- are not presented in such a way as to cause panic, or unwarranted alarm or undue distress; and
- do not deceive or disadvantage the viewer.

Guidelines

- 8a** Broadcasters should use established classification codes:
- classification symbols should be displayed at the beginning of each programme and after each advertising break;
 - warnings should be considered when programme content is likely to offend or disturb a significant number of the intended audience.
- 8b** All promos (including promos for news and current affairs) should be classified to comply with the “host programme” (the programme in which they screen):
- promos for AO programmes shown outside AO time should comply with the classification of the host programme;
 - promos shown in G or PGR programmes screening in AO time should comply with the G or PGR classification of the host programme;

- when a promo screens during an unclassified host programme (including news and current affairs) in G or PGR time, the promo must be classified G or PGR and broadcasters should pay regard to Standard 9 – Children’s Interests;
- when a promo screens adjacent to an unclassified host programme (including news and current affairs) in G or PGR time, the promo should comply with the underlying timeband;
- broadcasters should be aware that promos showing footage of violence or other explicit material outside the context of the original programme may be unacceptable to viewers in the context of the host programme in which they screen.

8c Except as justified in the public interest, news flashes screening outside regular news and current affairs programmes, particularly during children’s viewing time, should avoid unnecessary, distressing or alarming material or should provide a prior warning about the material.

8d Advertisements and infomercials should be clearly distinguishable from other programme material.

8e Broadcasters should ensure that there is no collusion between broadcasters and contestants that results in unfair advantage to any contestant.

8f Broadcasters should not use the process known as “subliminal perception” or any other technique which attempts to convey information to the viewer by transmitting messages below or near the threshold of normal awareness.

STANDARD 9 – Children’s Interests

During children’s normally accepted viewing times (see Appendix 1), broadcasters should consider the interests of child viewers.

Guidelines

9a Broadcasters should be mindful of the effect any programme or promo may have on children during their normally accepted viewing times – usually up to 8.30pm – and avoid screening material that would disturb or alarm them.

9b When scheduling AO material to commence at 8.30pm, broadcasters should ensure that strong adult material is not shown soon after the watershed.

9c Broadcasters should have regard to the fact that children tend to:

- stay up later than usual on Friday and Saturday nights and during school and public holidays; and
- watch television through to midday on Saturday and Sunday mornings, and during school and public holidays.

Accordingly, special attention should be given to providing appropriate warnings during these periods.

9d Programmes containing disturbing social and domestic friction or sequences in which people – especially children – or animals may be humiliated or badly treated, should be handled with care and sensitivity:

- all gratuitous material of this nature should be avoided and any scenes shown must pass the test of relevancy within the context of the programme. If thought likely to disturb children, the programme should be scheduled later in the evening.

9e Children’s cartoons should avoid gratuitous violence – especially violence involving humans or human-like creatures - unless it would be clear to the child viewer that the themes are fanciful or farcical.

STANDARD 10 – Violence

Broadcasters should exercise care and discretion when dealing with the issue of violence.

Guidelines

10a Any violence shown should be justified in the context of screening and not be gratuitous.

10b Broadcasters should be mindful of the cumulative effect of violent incidents and themes:

- the impression that violence is dominating a single programme, a programme series, or a line-up of programmes screened back-to-back should be avoided.

10c Programmes in which rape or sexual violence is a theme should be treated with care:

- explicit detail and prolonged focus on sexually violent contact should be avoided;
- any programme in which rape is depicted should be preceded by a warning;
- the combination of violence and sexuality in a way designed to titillate should not be shown.

10d In news, current affairs and factual programmes, where disturbing or alarming material is often shown to reflect a world in which violence occurs, the material should be justified in the public interest:

- editors and producers must use judgement and discretion in deciding the degree of graphic detail to be included in news programmes when children are likely to be watching;
- warnings within news programmes should be used when appropriate;
- when executions and assassinations are shown the coverage should not be explicit, prolonged, or repeated gratuitously.

10e In sports programmes violent incidents during or surrounding play should not be repeated gratuitously:

- sports announcers and commentators should avoid making comments which appear to approve of, or glamorise, any dangerous or violent behaviour, on or off the field, that is not in accordance with the rules of the particular sport.

STANDARD 11 – Liquor

Broadcasters should observe restrictions on the promotion of liquor appropriate to the programme genre being broadcast. Liquor Promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor.

Definition

Liquor Promotion comprises:

- promotion of a liquor product, brand or outlet ('promotion')
- liquor sponsorship of a programme ('sponsorship')
- advocacy of liquor consumption ('advocacy')

Guidelines

- 11a** Liquor Promotion must not appear in programmes specifically directed at children.
- 11b** Broadcasters must ensure that Liquor Promotion does not dominate programmes.
- 11c** Broadcasters must avoid advocacy of excessive liquor consumption.
- 11d** Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline 11b into account.

11e Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor's sales message:

- when scheduling liquor-sponsored programmes, broadcasters will also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority's Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period);
- promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a subordinate manner, be confined to the brand, name or logo and must not include a sponsor's sales message.

Note:

To assist programme makers, sports organisations and sponsors, television broadcasters have published guidelines for restrictions on liquor promotion in the coverage of sports events. The information can be found at www.thinktv.co.nz.

APPENDIX 1

Free-To-Air Television Programme Classifications

Definition:

A child means a boy or girl under the age of 14 years (Children, Young Persons, and Their Families Act 1989).

G – General

Programmes which exclude material likely to be unsuitable for children. Programmes may not necessarily be designed for child viewers but should not contain material likely to alarm or distress them.

G programmes may be screened at any time.

PGR – Parental Guidance Recommended

Programmes containing material more suited for mature audiences but not necessarily unsuitable for child viewers when subject to the guidance of a parent or an adult.

PGR programmes may be screened between 9am and 4pm, and after 7pm until 6am.

AO – Adults Only

Programmes containing adult themes and directed primarily at mature audiences.

AO programmes may be screened between midday and 3pm on weekdays (except during school and public holidays as designated by the Ministry of Education) and after 8.30pm until 5am.

AO - 9.30pm

– Adults Only 9.30pm - 5am

Programmes containing stronger material or special elements which fall outside the AO classification. These programmes may contain a greater degree of sexual activity, potentially offensive language, realistic violence, sexual violence, or horrific encounters.

Unclassified Programming

1. News and Current Affairs programmes, which may be scheduled at any time and may, on occasion, pre-empt other scheduled broadcasts, are not, because of their distinct nature, subject to censorship or to the strictures of the classification system:
 - producers should be mindful that young people may be among viewers of news and current affairs programmes during morning, daytime and early evening hours and should give consideration to including warnings where appropriate.
2. Sports and Live Programming cannot be classified due to the 'live' nature of the broadcast. The broadcaster should take all reasonable steps to ensure that the content of the programme conforms with the underlying timeband in which the programme is broadcast.

APPENDIX 2

Advisory Opinion: Privacy Principles

1. It is inconsistent with an individual's privacy to allow the public disclosure of private facts, where the disclosure is highly offensive to an objective reasonable person.
2. It is inconsistent with an individual's privacy to allow the public disclosure of some kinds of public facts. The 'public' facts contemplated concern events (such as criminal behaviour) which have, in effect, become private again, for example through the passage of time. Nevertheless, the public disclosure of public facts will have to be highly offensive to an objective reasonable person.
3. (a) It is inconsistent with an individual's privacy to allow the public disclosure of material obtained by intentionally interfering, in the nature of prying, with that individual's interest in solitude or seclusion. The intrusion must be highly offensive to an objective reasonable person.

(b) In general, an individual's interest in solitude or seclusion does not prohibit recording, filming, or photographing that individual in a public place ('the public place exemption').

(c) The public place exemption does not apply when the individual whose privacy has allegedly been infringed was particularly vulnerable, and where the disclosure is highly offensive to an objective reasonable person.
4. The protection of privacy includes the protection against the disclosure by the broadcaster, without consent, of the name and/or address and/or telephone number of an identifiable individual, in circumstances where the disclosure is highly offensive to an objective reasonable person.
5. It is a defence to a privacy complaint that the individual whose privacy is allegedly infringed by the disclosure complained about gave his or her informed consent to the disclosure. A guardian of a child can consent on behalf of that child.
6. Children's vulnerability must be a prime concern to broadcasters, even when informed consent has been obtained. Where a broadcast breaches a child's privacy, broadcasters shall satisfy themselves that the broadcast is in the child's best interests, regardless of whether consent has been obtained.
7. For the purpose of these Principles only, a 'child' is defined as someone under the age of 16 years. An individual aged 16 years or over can consent to broadcasts that would otherwise breach their privacy.
8. Disclosing the matter in the 'public interest', defined as of legitimate concern or interest to the public, is a defence to a privacy complaint.

Note:

- *These principles are not necessarily the only privacy principles that the Authority will apply*
- *The principles may well require elaboration and refinement when applied to a complaint*
- *The specific facts of each complaint are especially important when privacy is an issue.*