

# Law and Order as a broadcasting standard

## Background

Broadcasters are required by the Broadcasting Act 1989 to maintain standards consistent with the maintenance of law and order (s4(1)(b)). This requirement has been included in the three Codes of Broadcasting Practice, for free to air television, radio and pay television. For example, the free to air television code reads:

### **Standard: Law and Order**

In the preparation and presentation of programmes, broadcasters are responsible for maintaining standards which are consistent with the maintenance of law and order.

There are six guidelines relating to this standard in the free to air television code and one in the radio code. The full Codes are on the Authority's website.

The purpose of this Practice Note is to provide guidance to complainants and broadcasters about the usual way this standard is interpreted by the BSA.

## Comment

The phrase 'law and order' is sometimes used as a political slogan and without a precise definition. The BSA does not adopt this approach when determining complaints that a broadcast has breached this standard. The Authority notes that the Act does not require a broadcaster to maintain law and order per se, but standards consistent with law and order.

The BSA is not concerned with broadcast items which merely discuss or depict, without condemnation, breaking the law. Such items are unlikely to be a prima facie breach of the standard. To find a breach of the standard, the BSA will need to be convinced that a broadcast not only implicitly condemns a particular law, but also actively promotes disrespect for it.

The same approach is taken with broadcast items which describe or portray particular criminal behaviour. Depiction or discussion of criminal behaviour is usually acceptable. The exceptions tend to be if a broadcast explicitly instructs how to imitate an unusual criminal technique, or suicide, or if it glamorises the criminal activity. 'Glamorise' is the word which appears in three of the guidelines to the television code. It is a key attribute the BSA considers when assessing whether the broadcast breaches the standard.

Suicide should be neither glamorised nor any techniques explained.

The following summary explains the BSA's approach in its past decisions on complaints that the law and order standard was breached. It is intended as a guide. Because of the importance of each specific factual situation, it does not commit the Authority in any way when determining a new complaint.

## BSA Decisions

As applied by the BSA in its decisions released between 1990 and 2005<sup>1</sup>, the 'law and order' standard requires broadcasters to refrain from broadcasting programmes which:

- could reasonably be expected to incite viewers or listeners to commit unlawful acts (2001-034, 2003-095, 2003-102)

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<sup>1</sup> Cited by year and the number of the complaint.

- display contempt for or are highly disrespectful of a valid legal process (1995-115, 2000-086)
- impede or interfere with the orderly and just disposition of any case before a court (1998-124)
- glamorise realistic criminal behaviour (2003-003, 2004-108, 2005-060)
- explain unusual techniques or an unusual application of a familiar technique of crime (1993-130)
- advocate taking the law into one's own hands (2003-005, 2003-095/096).

The standard does not require programmes to:

- comply with specific legislation or settled common law (2001-015)
- condemn a criminal act which is referred to (1996-142).

The standard does not prevent programmes doing the following, within reason:

- challenging a specific law (1996-076, 2000-096)
- commenting provocatively on a case before the court (1998-124)
- being highly critical of valid legal processes (2003-005)
- being flippant (2002-200) or satirical (2005-060).

The BSA will not determine a complaint that a broadcast is in contempt of a court order or the sub judice rule. It regards that as the Court's responsibility (1998-124, 2003-002, 2003-107).

The BSA is not authorised to determine questions of law, other than in the interpretation of the Broadcasting Act 1989 and the Broadcasting Codes of Practice issued under the Act (2001-015, 2003-102). In each case it will also take into account the freedom of expression principles set out in the Bill Of Rights Act 1990.

*Disclaimer: Nothing in this Practice Note binds the BSA in determining the outcome of any future complaint. Each complaint is determined on the particular facts surrounding a broadcast.*