



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

# BAI CODE OF PROGRAMME STANDARDS

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## FOREWORD

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Developing a Code of Programme Standards is a challenging task, not least because there is no absolute, universally shared sense of what standards are or should be observed. Moreover, there is the concern that such a code could become a litany of prohibitions that ultimately constrain effective broadcasting. And the concepts of harm and offence that are embedded in the legislation are complex, subtle and distinctly different one from the other.

But broadcasting is not a free for all. There are standards. There are lines that virtually all in the audience will not want to see crossed.

This Code, as the Broadcasting Authority of Ireland (BAI) sees it, is a service to broadcasters and audiences alike. It seeks to offer a framework that is set firmly within the statutory context that recognises the important service that broadcasting provides to the public that does not attempt to circumscribe the reasonable editorial freedom of any broadcaster. But it recognises also the entitlement of the audience to have its deeply held convictions respected, its complexity and diversity recognised and reflected and those who are vulnerable protected.

And it provides a yardstick against which the audience can evaluate broadcast output and a clear basis on which to found a complaint if it is believed that a broadcaster has failed to observe the requirements of the law or of this Code. It sets out, therefore, to provide clear principles that should be observed and a set

of requirements (not exhaustive) that must be discharged. Through these, broadcasters, listeners and viewers have a path clearly delineated.

Harm and offence are important issues for the law and they are complex issues for the regulator. It would be an unconscionable restriction on the freedom of expression and the vitality of broadcasting if nothing likely to offend anybody could ever be broadcast. But that is neither what the law requires, nor what this Code prescribes. Not only is there no right not to be offended, it will be unavoidable that a programme service that captures the full richness of life and that seeks to address the entire range of topics of concern to the audience will contain material which will be a source of offence to some. There is an obligation on broadcasters to be provocative and to contribute to the awareness that a society has of itself, of its dynamic and changing character and of its place in the modern world.

That is why this Code is not simply a list of prescriptions or prohibitions. It prefers to capture a sense of the appropriate than to seek agreement on what constitutes taste. It acknowledges the importance of tone and context in how an audience will respond to programmes. It knows that there are types of content that more typically offend but knows also that it is not necessarily helpful to attempt to have a static or pre-determined view of what taste will be at any given time.

Harm, however, as the Code outlines, is altogether different. It is right and proper to ensure that no one in the audience is harmed by what is broadcast. There is a right not to be harmed. The concerns of children are of serious significance in this context and are specifically noted in the Code, as in the Broadcasting Act 2009 (“the Act”) and the Audiovisual Media Services Directive 2010/13/EU (“the Directive”).

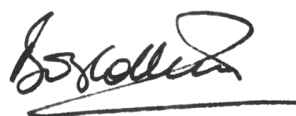
The Act juxtaposes the portrayal of violence and sexual conduct in the same sentence. But that is not to establish a moral equivalence between them. Different judgments must be made in their regard.

There will be times when programme content will be perceived to cross a threshold of acceptability and where editorial intervention should prevent its transmission. The freedom of expression is not absolute and does not include the freedom to defame or unfairly to impugn the character and good name of individuals. Where such content is broadcast, it is important that redress is available. It is to be a source of that redress that the Compliance Committee, a statutory committee of the Authority, exists.

The public interest is of crucial concern to the Broadcasting Authority of Ireland. It is the foundation of much of what the law contains and of the BAI’s approach to its work. But there can be circumstances in which that purpose can be invoked in ways that differ from our approach. It may be useful, therefore, to clarify what we mean. In this Code, the term public interest is used in a sense that facilitates and not one that

restricts. It connotes the genuine interests of citizens and others who live in this state; their capacity fully to understand the way in which public life is conducted; and their entitlement to the fullest range of information to assist them in the choices and decisions they will make in their lives and in the conduct of our democracy.

Much of what the Code provides is already reflected in the way responsible broadcasters approach their important work. In their exercise of their editorial judgments, for example, they will be sensitive to the values of the community; they will respect the watershed; they will appreciate the qualitatively different audience profile that is available during school holidays; and they will schedule sensitively. What the BAI hopes this Code will do is encourage the highest possible standards in the service provided to the audience and that its principles and linked requirements will both set the approach that broadcasters should take and offer reassurance to the audience that its interests are supported and protected.



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**Bob Collins**  
Chairperson (2009–2014)  
Broadcasting Authority of Ireland

# INTRODUCTION

## LEGISLATIVE BASIS

The Broadcasting Authority of Ireland (“BAI”) prepares and publishes codes of practice for broadcasters, as required by law. This Code gives expression to the statute, specifically to the requirements of sections 42(2) (c), (d), (f), (i) and (j) of the Broadcasting Act 2009 (“the Act”).

LEGISLATION	BROADCASTING CODES SHALL PROVIDE:	BAI CODE
Section 42(2)(a)	all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster’s own views,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(b)	the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster’s own views,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(c)	anything being likely to promote or incite to, crime, or as tending to undermine the authority of the State, is not broadcast by a broadcaster,	Code of Programme Standards
Section 42(2)(d)	in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon,	Code of Programme Standards

Cont. →

LEGISLATION	BROADCASTING CODES SHALL PROVIDE:	BAI CODE
Section 42(2)(e)	a broadcaster does not, in the allocation of time for transmitting party political broadcasts, give an unfair preference to any political party,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs and Election and Referenda Guidelines
Section 42(2)(f)	in respect of programme material broadcast by a broadcaster that audiences are protected from harmful or offensive material, in particular, that programme material in respect of the portrayal of violence and sexual conduct, shall be presented by a broadcaster – (i) with due sensitivity to the convictions or feelings of the audience, and (ii) with due regard to the impact of such programming on the physical, mental or moral development of children,	Code of Programme Standards
Section 42(2)(g)	advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other such activities which relate to matters likely to be of direct or indirect interest to children, must protect the interests of children having particular regard to the general public health interests of children,	Children’s Commercial Communications Code
Section 42(2)(h)	advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within paragraph (g), must protect the interests of the audience,	General Commercial Communications Code

Cont. →

<b>LEGISLATION</b>	<b>BROADCASTING CODES SHALL PROVIDE:</b>	<b>BAI CODE</b>
Section 42(2)(i)	the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation, protects the interests of the audience, and	Code of Programme Standards
Section 42(2)(j)	for the matters to be provided for by Chapters IIA, IV and V of the Council Directive. <sup>1</sup>	Code of Programme Standards, General Commercial Communications Code, Children’s Commercial Communications Code, BAI Rules on Advertising and Teleshopping

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<sup>1</sup> ‘Council Directive’ means Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 and by Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007. A simplified and codified version of these Directives was introduced in 2010: the Audiovisual Media Services Directive 2010/13/EU.



In preparing or revising a broadcasting code, the Authority must have regard to each of the following matters, further to the provisions of Section 42(3) of the Act:

- (a) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description,
- b) the likely size and composition of the potential audience for programmes included in television and sound broadcasting services generally, or in television and sound broadcasting services of a particular description,
- (c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience,

d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content,

(e) the desirability of securing that the content of a broadcasting service identifies when there is a change affecting the nature of the service that is being watched or listened to and, in particular, a change that is relevant to the application of the codes set under this section, and

(f) the desirability of maintaining the independence of editorial control over programme content.

These statutory provisions are given practical effect in a number of codes operated by the BAI. The provisions highlighted in the above table are covered by this Code of Programme Standards. All of the BAI codes can be found at [www.bai.ie](http://www.bai.ie).

## THE OBJECTIVES OF THIS CODE

- To promote responsible broadcasting in which access to information, entertainment and education and a range of views are enhanced and undue offence and harm are reduced.
- To acknowledge the diversity of tastes and interests that exist in contemporary Irish society and to encourage and facilitate broadcasting that caters for this diversity.
- To advise viewers and listeners on the standards they can expect from broadcasting services and to enable viewers and listeners to hold broadcasters to account in the event that they believe that a broadcaster has behaved irresponsibly.
- To provide guidance to broadcasters in relation to matters falling within the scope of the codes.

## **THE RIGHT TO COMPLAIN**

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The Code is intended to help viewers and listeners who believe that they have a legitimate complaint about a broadcast and who wish to make a complaint.

It explains how the BAI may assess a complaint. The intention is to make it as easy as possible to have your complaint considered.

## **HOW TO COMPLY WITH THIS CODE**

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- Broadcasters are required to comply with all seven principles in this Code.
- The principles are indivisible, that is, all programme material must conform to all of the principles.
- Each principle has a list of non exhaustive requirements which broadcasters must discharge. These requirements help viewers and listeners to understand how the principle may be fulfilled.

## **HOW TO MAKE A COMPLAINT**

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- Viewers and listeners who believe programme material has not complied with the principles and requirements of this Code are entitled to make a complaint. Complaints should be made, in the first instance, to the broadcaster.
- You should identify the relevant programme broadcast and explain what it is about the broadcast that has led you to make a complaint. It is important to set out clearly the grounds of your complaint or why you believe the programme material does not comply with one or more of the principles of this Code and/or the legislative provisions set out above.
- Your complaint should reference at least one of the principles.
- Each broadcaster is required to consider complaints in line with its Code of Practice for Complaints Handling and you should refer to the broadcaster's Code of Practice when making your complaint to the broadcaster. The Code of Practice should explain how a broadcaster will consider and assess your complaint.

## **HOW COMPLAINTS WILL BE ASSESSED BY THE BAI**

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In circumstances where your complaint has not been responded to by the broadcaster or you are not satisfied with the response, you may refer your complaint to the BAI. The BAI will consider the programme material complained of in whole and in context with reference to:

- The matters identified in the complaint;
- The seven principles of this Code and the requirements of each of the principles;
- The provisions of the Broadcasting Act 2009;
- The provisions of the Audiovisual Media Services Directive 2010/13/EU; and,
- The procedures, practices and policies of the BAI.

The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

Further information on the complaints process can be found on the BAI's website [www.bai.ie](http://www.bai.ie) or by telephone on 01 6441200.

## **SCOPE AND JURISDICTION**

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This Code shall apply to all programme material broadcast by broadcasters within the jurisdiction of Ireland. It does not apply to commercial communications, such as advertising, programme sponsorship or teleshopping or to complaints about fairness, objectivity and impartiality in news and current affairs content. It does not apply to other services commonly received in this State, but licensed in the United Kingdom or other jurisdictions.

The term 'broadcaster' is understood in the context of the definition provided in the Broadcasting Act 2009, which is as follows:

*"Broadcaster means a person who supplies a compilation of programme material for the purpose of its being transmitted, relayed or distributed as a broadcasting service (whether than person transmits, relays or distributes that material as such a service or not)."*

## **EFFECTIVE DATE**

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This Code comes into effect on the 1st day of March 2015.

## CODE OF PROGRAMME STANDARDS PRINCIPLES

There are seven guiding principles underpinning the Code of Programme Standards and against which all complaints will be assessed. These principles are:

- |   |                                    |   |  |
|---|------------------------------------|---|--|
| 1 | RESPECT FOR<br>COMMUNITY STANDARDS | 5 | RESPECT FOR PERSONS<br>AND GROUPS IN SOCIETY |
| 2 | IMPORTANCE OF CONTEXT              | 6 | PROTECTION OF<br>THE PUBLIC INTEREST         |
| 3 | PROTECTION FROM HARM               | 7 | RESPECT FOR PRIVACY                          |
| 4 | PROTECTION OF CHILDREN             |   |  |

### THE DISTINCTION BETWEEN HARM AND OFFENCE

In requiring the BAI to draw up this Code, the Act talks about harm and offence. There is an important distinction to be made between both. Those matters which cause offence can, and frequently do, differ from person to person and are largely subjective in their nature. Acknowledging this, there can be no guarantee that programme material will be free from offence. There is no right not to be offended and, for broadcasters, it is to be expected that, in fulfilling their duty to provide a diverse range of programming that caters to a diverse audience, there will be programming that causes offence to some members of the audience. The Code responds to offence in two ways. First, it aims to ensure that the viewer and listener are equipped with sufficient information to make an informed choice as to what they listen to or view. Broadcasters guide viewers and listeners by providing pre-warnings and by scheduling programming according to audience expectations of that type of content or of a particular channel or service. Second, the Code also guards against undue offence which is programme material that, taking into account contextual factors such as editorial justification and public interest, could still be regarded as having crossed a line that has resulted in the viewer or listener being unduly offended.

Harm is less subjective. It is something that is not as dependent on the subjective views that each person brings to programmes that they listen to or view. Harmful material is material that has an 'effect' - content that causes mental, psychological or physical harm. Individuals should not be harmed by programme material and the Code aims to prevent harm to viewers and listeners. While acknowledging that these are two distinct concepts, the Code also accepts that offence can become harmful in certain circumstances.

## Principle 1

# RESPECT FOR COMMUNITY STANDARDS

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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. This principle recognises that such standards are ever evolving and broadcasting must be facilitated in representing the rich diversity, plurality and realities of contemporary Irish society. This may sometimes involve making programmes that may cause offence to viewers and listeners but are justified for creative, editorial or other reasons.

This principle acknowledges the importance of editorial independence and freedom and the entitlement of audiences to a diverse range of programming.

### **In fulfilment of Principle 1, broadcasters shall:**

- Take due care in broadcasting depictions and/or descriptions of violence in programme material. Broadcasters shall have due regard to the appropriateness of and/or justification for, the inclusion of violent content in programme material having regard to all of the principles of the Code.
- Take due care in broadcasting depictions and/or descriptions of sexual content in programme material. Broadcasters shall have due regard to the appropriateness of, and/or justification for, the inclusion of sexual content in programme material having regard to all of the principles of the Code.
- Have due regard to the appropriateness of, and/or justification for, the inclusion of coarse and/or offensive language in programming.
- Be alert to, and guard against, the use of coarse and/or offensive language in live programming and, where such incidents occur, take timely steps to minimise any offence caused, such as, acknowledging, clarifying and/or apologising for the language used.

## Principle 2

# IMPORTANCE OF CONTEXT

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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. Such factors include:

- The time at which a programme is broadcast;
- The type of programme (i.e. content, genre, live, pre-recorded or repeat);
- The likely expectations of the audience as to the nature of the particular programme or broadcast service;
- The use of audience information and guidance and the degree to which the nature of the content was brought to the attention of the audience in advance (by means of an acoustic or other warning or through the inclusion of a visual symbol in the case of television programming) to allow a viewer or listener to make an informed choice;
- The likelihood of persons who are unaware of the nature of the content being unintentionally exposed, by their own actions, to that content;
- The type of channel or service on which the programme material was broadcast;
- Whether the inclusion of the programme material complained of was editorially justified; and
- The likely size and composition of the audience for that programme material.

### **In fulfilment of Principle 2, broadcasters shall:**

- 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 and, on television services, the use of the watershed, which operates after 21.00.
- Have due regard to the established audience expectations of a broadcasting service and to the consequences of any intentional departure from the usual nature of the service.

- In live programming, take timely corrective action where unplanned content is likely to have caused offence. Such action may be to acknowledge, clarify and/or apologise for such content.
- Use prior warnings and/or include a visual symbol where programme material is likely to offend or cause distress to a significant number of viewers.
- Use an evaluative or descriptive classification system for programme material, where possible.
- Provide appropriate help line contact details for the viewer or listener, where relevant.
- Ensure all audience information and guidance mechanisms are provided in a manner which is clearly audible for radio audiences and clearly visible and audible for television audiences.
- Appropriately promote its audience information and guidance mechanisms.

### Principle 3

## PROTECTION FROM HARM

Broadcasting can be a force for public good. In enriching people's lives through entertainment, information or other programming, broadcasters must be free to make programmes that may be provocative or deal with sensitive issues. However, broadcasters must take due care to ensure that audiences are not exposed to harmful content and must provide adequate information to audiences to allow them to make informed choices about what they listen to and watch.

This principle recognises that there are some viewers and listeners who, by virtue of their age, particular circumstances or vulnerability, may be in need of special consideration.

Individual viewers and listeners may require support mechanisms or further information/guidance where they are exposed to content with which they identify strongly by virtue of their own personal circumstances or experiences and that may cause them distress. Some people require protection from programme material that can cause a physical reaction, for example, material that affects those with photo sensitive epilepsy or those who are susceptible to hypnosis. Some viewers and listeners may require protection from content that purports to be one thing when it is another, for example, something seemingly factual that is actually fictional or controversial.

### **In fulfilment of Principle 3, broadcasters shall:**

- Take due care when broadcasting programme material containing characters, actions and personal circumstances with which audiences may identify and which can cause distress, particularly in relation to content such as sexual violence, self harm or suicide, reconstructions of factual events and archive footage. Programme material of this nature shall be accompanied by some form of audience information or guidance, such as prior warnings and help line contact details.
- Not encourage or favourably present the abuse of drugs, alcohol, or solvents or the use of illegal drugs. Depictions and/or descriptions of detailed methods and techniques for administering illegal drugs must have strong editorial justification for their inclusion.
- Not broadcast material that encourages people to imitate acts which are damaging to the health and safety of themselves or others or grossly prejudicial to the protection of the environment.



- Take due care when broadcasting programme material that includes the simulation of news. Simulated news (for example in drama or in documentaries) must be broadcast in such a way that there is no reasonable possibility of the audience being misled into believing that they are listening to, or watching, actual news.
- Treat demonstrations of exorcism, the occult, the paranormal, divination (including fortune telling) or practices relating to any of these that purport, or may be thought to be real, with due care. When such demonstrations are for entertainment purposes, this must be made clear to the audience. Such demonstrations, whether purporting to be real or for entertainment purposes, must not contain life changing advice directed at an individual upon which they may reasonably be expected to act or rely. This does not apply to demonstrations which feature in films, drama or other fictional programming.
- Take due care with regard to the manner in which hypnosis is conducted during a programme.
- Provide prior warnings, as appropriate, for viewers with photo sensitive epilepsy in a manner which is clearly audible and visible.

Principle 4

## PROTECTION OF CHILDREN

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.

Under the Broadcasting Act 2009, children are defined as persons under the age of 18 years. For the purposes of regulation, the BAI defines children's programmes as programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age. This principle recognises that 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.

### **In fulfilment of Principle 4, broadcasters shall:**

- Ensure that programme material that might seriously impair the physical, mental or moral development of children is not broadcast when children are likely to be viewing, in particular, programmes that include pornography or gratuitous violence.
- Take particular care when broadcasting programme material to children or at times when children may be watching or listening. This will include, in particular, programme material broadcast before the watershed.
- Take particular care when scheduling programming material that is broadcast either side of programmes that are likely to be watched or listened to by children, such as after the watershed, during school runs, and during school holidays.
- Take particular care to ensure that trailers and promotions for programming not reasonably regarded as suitable for children shall not be shown immediately before, during or after children's programming or before the watershed.

## Principle 5

# RESPECT FOR PERSONS AND GROUPS IN SOCIETY

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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, membership of the Traveller community, family status, sexual orientation, disability, race, nationality, ethnicity or religion.

### **In fulfilment of Principle 5, broadcasters shall:**

- Not broadcast material involving threatening, abusive or insulting visual images or sounds with the intent to stir up hatred or where it is likely that hatred will be stirred up as a result against persons or groups in society, including on the grounds of race, religion, sex, ethnicity, sexual orientation or nationality.
- Only emphasise age, colour, gender, national or ethnic origin, disability, race, religion or sexual orientation when such references are justified, having regard to the principles of this Code, in particular, the importance of context.
- Recognise that the use of terms, references and images that could be considered offensive to persons and groups in society and associated colloquial terms of abuse aimed at any group requires editorial justification for their inclusion in programming.
- Show due respect for religious views, images, practices and beliefs in programme material. This is not intended to prevent the critical scrutiny of religion by means of information, drama or other programming.

## Principle 6

# PROTECTION OF THE PUBLIC INTEREST

The BAI supports robust and responsible programme making that facilitates viewers and listeners in understanding subjects of public importance and informs them in the public interest. The public interest consideration should not be seen as a test used to limit broadcasting freedom but rather, it is a principle that animates broadcasting and serves a democratic society.

Public interest content may include programme material that:

- Reveals or detects crime;
- Protects public health or safety;
- Exposes false or misleading claims made by individuals or organisations;
- Discloses incompetence of individuals or organisations that affect the public;
- Exposes misuse of public funds;
- Exposes the breaking of the law;
- Encourages and facilitates debate and understanding of social and political topics;
- Informs the public, or raises a debate, on matters of public importance.

However, broadcasters must have regard to other matters of importance to society. In particular, broadcasters shall protect the interests of the audience where the provision of the broadcasting service has, as one of its principal objectives, the promotion of the interests of any organisation. Broadcasters shall not broadcast anything likely to promote, or incite, to crime or as tending to undermine the authority of the State. This principle should not be interpreted to inhibit broadcasters from challenging public policy or having open debates about how government and society does or does not operate. This principle recognises that the public interest can also be adversely affected by the omission of material and/or the inadequate representation of information or viewpoints.

### **In fulfilment of Principle 6, broadcasters shall:**

- Not broadcast material likely to promote, or incite to, crime or as tending to undermine the authority of the State.
- Protect the interests of the audience where the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation.
- Not encourage behaviour or views that are grossly prejudicial to the protection of the environment. Broadcasters are encouraged to inform audiences of current developments in respect of environmental matters in a manner that gives due weight to the balance of contemporary scientific knowledge.
- Ensure competitions and voting are conducted fairly under rules made known to the audience so as not to mislead the audience.

## Principle 7

# RESPECT FOR PRIVACY

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This principle recognises that 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 privacy of a person may be unreasonably encroached upon where there is no good reason for the encroachment.

The casual or incidental broadcast of people in public settings in a programme shall not, normally, be considered an unwarranted or unreasonable encroachment of privacy.

Complaints regarding privacy must be made by the person whose privacy may have been unreasonably encroached upon. A parent, guardian or representative nominated by the person, may make a complaint on behalf of the person where appropriate.

### **In fulfilment of Principle 7, broadcasters shall:**

- Ensure that any encroachment on the privacy of an individual in a programme or in the means of making a programme is not unwarranted, having regard to the principles of this Code, in particular, the protection of the public interest. Any such encroachment must be proportionate and limited to the degree that is required to inform the audience in the public interest.
- Have due regard to the concept of individual consent and ensure that participants in a broadcast are generally aware of the subject matter, context and the nature and format of their contribution so that their agreement to participate constitutes informed consent.
- Have due regard to the particular considerations that apply in the case of a vulnerable person or a child under 16 years of age, to ensure that the privacy of such persons is never unreasonably encroached upon. Vulnerable people are individuals whose personal circumstances or well-being require that extra care be taken.

- Obtain consent where programme material, or the means of making programme material, directly involves a vulnerable person or a child less than 16 years of age. Consent should be sought from the vulnerable person or child, if possible, **and** from a parent, guardian, nominated representative or person responsible for his/her primary care. It may not be necessary to obtain consent if the subject matter is trivial or the participation is minor or, based on other factors, it is warranted to proceed without consent, having regard to the principles of this Code.
- Give due consideration to requests for withdrawal of consent, having regard to the principles of the Code, in particular, the protection of the public interest and other circumstances that may arise such as contractual relationships.
- Ensure that the re-use of material, for use in different programme material or for another purpose, does not unreasonably encroach on the privacy of an individual.
- Have due regard to the impact that coverage and repeated coverage of death may have on the families and friends of the deceased.
- Have due regard for the particular considerations that apply when filming in situations of emergency or when filming victims of accidents or those suffering personal tragedy, in order to ensure that the privacy of such persons is not unreasonably encroached upon.
- Ensure that surreptitious filming or recording is only used where it is warranted.