



BCCSA FREE-TO- AIR CODE OF CONDUCT FOR BROADCASTING SERVICE LICENSEES 2009

This Code will replace the Code as agreed to by the BCCSA in 2003 and will come into effect on 1 January 2011

1. Definitions

In this Code, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned.

“Act” means the Electronic Communications Act, Act no 36 of 2005;

“audience” refers to both the viewers and listeners of television and sound Broadcasting service licensees;

“broadcasting service licensee” means a free-to-air South African broadcasting service licensee as defined in section 1 of the Act and which: has agreed to the jurisdiction of the Broadcasting Complaints Commission of South Africa (BCCSA) as constituted in 1993 by the National Association of Broadcasters and which was formally approved by the Independent Broadcasting Authority of South Africa (now ICASA) in 1995; and has thereby also agreed to the Constitution, **Free-to-Air** Broadcasting Code and Procedural Rules of the BCCSA;

“child pornography” means any description or visual image, real or simulated, however created, explicitly depicting a person who is or who is depicted as being under the age of 18 years (a) engaged in or participating in sexual conduct;(b) engaged in an explicit display of genitals; or (c) assisting another person to engage in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience;

“**child**” means a person under the age of 18 years;

“**ICASA Act**” means the Independent Communications Authority of South Africa Act 13 of 2000;

“**sexual conduct**” means: (i) the display of genitals or of the anus; (ii) masturbation; (iii) sexual intercourse including anal sexual intercourse; (iv) in the case of child pornography, the fondling or touching of breasts, genitalia or the anus; (v) the penetration of a vagina or anus with any object; (vi) oral genital contact; or (vii) oral anal contact;

“**watershed period**” means the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees.

2. Scope of Application

- (1) Broadcasting service licensees must ensure that all broadcasts comply with this Code.
- (2) Broadcasting service licensees must ensure that relevant employees and programme producers, including those from whom they commission programmes, understand the contents and significance of this Code.
- (3) All broadcasting service licensees should also have procedures for ensuring that programme producers can seek guidance as to the application of the Code from them.

3. Violence and Hate speech

Broadcasting service licensees must not broadcast material which, judged within context

- (a) contains violence which does not play an integral role in developing the plot, character or theme of the material as a whole; or
- (b) sanctions, promotes or glamorises violence or unlawful conduct.

4. (1) Broadcasting service licensees must not broadcast material which, judged within context, sanctions, promotes or glamorises violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.
- (2) Broadcasting service licensees must not broadcast material which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence; or (c) the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

5. Exclusions

Clauses 3 and 4 do not apply to:

- (1) a broadcast which, judged within context, amounts to a *bona fide* scientific, documentary, dramatic, artistic, or religious broadcast;
- (2) a broadcast which amounts to a discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or
- (3) a broadcast which amounts to a *bona fide* discussion, argument or opinion on a matter of public interest.

6. Children

- (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.
- (2) Broadcasting service licensees must exercise particular caution, as provided below, in the depiction of violence in children's programming.

- (3) In children's programming portrayed by real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.
- (4) Animated programming for children, while accepted as a stylised form of story-telling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.
- (5) Programming for children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.
- (6) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys.
- (7) Programming for children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.
- (8) Programming for children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.
- (9) Programming for children must not contain frightening or otherwise excessive special effects not required by the story line.
- (10) Offensive language, including profanity and other religiously insensitive material, must not be broadcast in programmes specially designed for children.

- (11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children are likely to be part of the audience on television or radio.

7. Watershed Period

- (1) Programming on television which contains scenes of explicit violence and/or sexual conduct and/or nudity and/or grossly offensive language intended for adult audiences must not be broadcast before the watershed period.
- (2) Promotional material and music videos which contain scenes of explicit violence and/or explicit threatening violence and/or sexual conduct and/or the fondling or touching of breasts and/or genitalia or the anus and/or nudity and/or offensive language intended for adult audiences must not be broadcast before the watershed period.
- (3) Some programmes broadcast outside the watershed period may not be suitable for very young children. Licensees must provide sufficient information, in terms of regular scheduling patterns or audience advisories, to assist parents and *de facto* or legal guardians to make appropriate viewing choices.
- (4) Television broadcasting service licensees may, with the advance of the watershed period, progressively broadcast more adult material.
- (5) Broadcasting service licensees must be particularly sensitive to the likelihood that programmes which commence during the watershed period and which run beyond it may then be viewed by children.

8. Sexual Conduct

- (1) Broadcasting service licensees must not broadcast material which, judged within context, contains a scene or scenes, simulated or real, of any of the following:

- (a) child pornography;
 - (b) bestiality;
 - (c) sexual conduct which degrades a person in the sense that it advocates a particular form of hatred based on gender and which constitutes incitement to cause harm;
 - (d) explicit sexual conduct;
 - (e) explicit extreme violence or the explicit effects thereof; or
 - (f) explicit infliction of domestic violence.
- (2) Sub-clause 8(1) shall not be applicable to *bona fide* scientific, documentary, dramatic or artistic material which, judged within context, is of such a nature; provided that it is broadcast with due audience advisory after the watershed on a sliding scale according to its content.

9. Audience Advisories

- (1) To assist audiences in choosing programmes, television broadcasting service licensees must provide advisory assistance which, when applicable, must include guidelines as to age, where such broadcasts contain violence, sex, nudity and/or offensive language. The advisory must be visible on the screen for a minimum of 90 seconds at the commencement of the programme and for a minimum of 30 seconds after each advertisement or other break. Where the frequency of the said subject matters, or any one or some of them, is high, a continuous advisory will be necessary, whether it is broadcast before or after the watershed.
- (2) The following visual advisory age system must be used: 10, 13, 16 and 18. The following symbols must be used in accordance with the relevant content: V(violence), L(language), N(nudity), S(sex), PG(Parental Guidance).
- (3) An audio advisory before the commencement of the programme must also accompany the broadcast of a film with an age restriction of 18.

10. Classification by Films and Publications Board

- (1) Where a Films and Publications Board classification for a film exists in terms of the Films and Publication Act No. 65 of 1996, such classification may be used as a guideline for an advisory to the broadcast of the film.
- (2) No film which carries an XX classification in terms of the Films and Publications Act may be broadcast.

11. News

- (1) Broadcasting service licensees must report news truthfully, accurately and fairly.
- (2) News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:
 - (a) Distortion, exaggeration or misrepresentation.
 - (b) Material omissions; or
 - (c) Summarisation
- (3) Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact, and such fact must be broadcast fairly with reasonable regard to context and importance.
- (4) Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case.
- (5) Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified. Where such verification is not practicable, that fact must be mentioned in the report.
- (6) Where it subsequently appears that a broadcast report was incorrect in a material respect, it must be rectified forthwith, without reservation or delay. The rectification must be presented with such a degree of prominence and

timing as in the circumstances may be adequate and fair so as to readily attract attention.

- (7) The identity of rape victims and other victims of sexual violence must not be divulged in any broadcast, whether as part of news or not, without the prior valid consent of the victim concerned.
- (8) Broadcasting service licensees must advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject-matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates.
- (9) Broadcasting service licensees must not include explicit or graphic images or language, related to news of destruction, accidents or sexual violence which could disturb children or sensitive audiences, except where it is in the public interest to include such material.

12. Comment

- (1) Broadcasting service licensees are entitled to broadcast comment on and criticism of any actions or events of public importance.
- (2) Comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.
- (3) Where a person has stated that he or she is not available for comment or such a person could not reasonably be reached, it must be stated in the programme.

13. Controversial Issues of Public Importance

- (1) In presenting a programme in which a controversial issue of public importance is discussed, a broadcaster must make reasonable efforts to

fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same time slot.

- (2) A person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance must be given the right to reply to such criticism on the same programme. If this is impracticable, reasonable opportunity to respond to the programme should be provided where appropriate, for example in a right to reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned.

14. Elections

During any election period, as defined in the Act, sections 56, 57, 58 and 59 of the Act and regulations issued in terms thereof apply. The BCCSA does not have jurisdiction in these matters and complaints must be directed to the Complaints and Compliance Committee of the Independent Communications Authority of South Africa.

15. Privacy, Dignity and Reputation

- (1) Broadcasting service licensees must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.
- (2) In the protection of privacy, dignity and reputation special weight must be afforded to South African cultural customs concerning the privacy and dignity of people who are bereaved and their respect for those who have passed away.
- (3) In the protection of privacy, dignity and reputation special weight must be afforded to the privacy, dignity and reputation of children, the aged and the physically and mentally disabled.

16. Competitions and Audience Participation

- (1) Where audiences are invited on air to react to a programme or competition broadcasting service licensees must make known the full cost of a telephone call or a SMS.
- (2) Broadcasting service licensees must specify the proportion of the cost of the call or SMS, as the case may be, which is intended for any specified charitable cause.
- (3) Broadcasting service licensees must ensure that audiences who are invited to compete in any competition are made aware on air of the rules of the competition. Such rules must include the closing date and the manner in which the winner is to be determined.

-----0000-----



THE BCCSA'S CODE OF CONDUCT FOR ONLINE CONTENT SERVICES FOR LICENSED BROADCASTERS

PREAMBLE

- a) *Section 54(1) of the Electronic Communications Act 2005 ("ECA") provides that all broadcasting licensees must adhere to the prescribed Regulations regarding the Code of Conduct for Broadcasting Service Licensees issued in terms of section 54 of the ECA ("ICASA Code of Conduct"). However, section 54(3) will not apply to a broadcasting licensee if that broadcasting licensee is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a code of conduct enforced by that body by means of its own disciplinary mechanisms, and provided such code of conduct and disciplinary mechanisms are acceptable to the Authority.*
- b) *In addition to the above, section 18(6) of the Films and Publications Act 65 of 1996 (as amended) ("FPA") recognizes that broadcasters who are subject to regulation by the Independent Communications Authority of South Africa ("ICASA") shall, for the purposes of online streaming, be exempt from the provisions of the FPA in respect of classification of content*
- c) *The Broadcasting Complaints Commission of SA ("BCCSA") was established by members of the National Association of Broadcasters (the "NAB"), which is a voluntary association of South African broadcasters, comprising licensed radio and television broadcasters, as well as entities and associates that operate in the sector.*
- d) *The current prescribed ICASA Code of Conduct and the BCCSA's Codes of Conduct for Free to Air Licensees and Subscription Broadcasting Service Licensees are not applicable for online content services for licensed broadcasters.*

- e) *Accordingly, the NAB has developed this Code of Conduct for Online Content Services provided by its members pursuant to section 54(3) of the ECA read together with section 18(6) of the FPA.*
- f) *NAB members provide broadcasting services to the public. Some NAB members also provide online content services.*
- g) *NAB members are concerned with the protection of users of their online content services and have therefore adopted this Code of Conduct to assist the public.*
- h) *This Code of Conduct relates to Online Content Services that are under the editorial control of NAB members. This Code of Conduct is administered by the BCCSA and Signatories to the Code and specific online content services that are bound by this Code of Conduct, are listed in Appendix A*
- i) *The procedures to be adhered to when making a complaint to the BCCSA in respect of this Code of Conduct are the Procedures of the BCCSA.*

1. THE CODE Definitions

1.1. In this Code, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the ECA has the meaning so assigned.

"Audience" means the viewers and/or listeners of an Online Content Service provided by a licensed broadcaster;

"Act" or the **"ECA"** means the Electronic Communications Act 36 of 2005, as amended;

"Child Pornography" means Child Pornography as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);

"Child" means a person under the age of 18 years, and **"Children"** shall have the same meaning;

"**Code**" means this Code of Conduct for Online Content Services for licensed broadcasters;

"**EPG**" means Electronic Programme Guide which are interactive menu-based systems or graphical user interfaces that provide users of digital television, radio and online media applications with search functionality, scheduling information for current and upcoming broadcast or simulcast online streaming programming, and/or facilitate user access to catchup services or online on-demand audio-visual library content using text, graphics, images or audio-visual content.

"**Films and Publications Act**" means the Film and Publications Act 65 of 1996, as amended;

"**ICASA Act**" means the Independent Communications Authority of South Africa Act 13 of 2000, as amended;

"**NAB**" means the National Association of Broadcasters of South Africa;

"**NAB Member / Member**" means a member of the NAB who pays an annual membership fee;

"**Signatory**" (or "**Signatories**") is an NAB member who has elected that its online content services will abide by this Code for Online Content Services;

"**Online Content Service**" means an on-demand streaming or downloading service provided by a Signatory, who is a broadcasting service licensed by the Independent Communications Authority of South Africa, which-

- a) is under the Signatory's editorial control;
- b) has the primary purpose of providing audio and /or video content, and which has similar characteristics to traditional broadcasting,
- c) is provided to the public or sections of the public, and
- d) is delivered to the end user of an online delivery medium, including the internet but does not include Social Media content or User Generated Content.

"**Sexual Conduct**" means:

- a) [male] genitals in a state of arousal or stimulation, real or simulated";
- b) undue display of genitals or of the anal region;
- c) rape;
- d) masturbation;
- e) bestiality;
- f) sexual intercourse [whether real or unintended] with a person or a human corpse, including anal or oral sexual intercourse;
- g) sexual contact involving the direct or indirect fondling or touching of the intimate parts of a body, including the breasts, anus, vagina, testicles or penis, with or without any object;
- h) the penetration of a vagina or anus with any object;
- i) oral genital contact; or
- j) oral anal contact.

“Social Media” means the various online technology tools and forms part of electronic communication via the internet, such as websites for social networking and micro blogging through which users create online communities to share information, ideas, personal messages and other content. Social Media content is not covered by this Code

“User Generated Content” means any content generated by third parties, including any written, visual, or audio content that is uploaded to a website, Social Media or app by third party users, which falls outside of the editorial control of the Signatory. User Generated Content is not covered by the Code;

2. Violence and Hate speech

- 2.1. The Signatory must not make available Online Content which, judged within context, sanctions, promotes or glamorizes violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.
- 2.2. The Signatory must not make available Online Content Which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence; or (c) the

advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

3. Exclusions

3.1. Clause 2 does not apply to:

3.1.1. Online Content which, judged within context, amounts to bona fide scientific, documentary, dramatic, artistic, or religious content.

3.1.2. Online Content which amounts to a discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or

3.1.3. Online Content which amounts to a bona fide discussion, argument or opinion on a matter of public interest.

4. Children

4.1. The Signatory must exercise particular caution, as provided for in further detail below, in the depiction of violence in online content specifically directed at Children.

4.2. Online Content specifically directed at Children and containing real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.

4.3. Animated Online Content for Children, while accepted as a stylised form of storytelling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.

4.4. Online Content specifically directed at Children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.

4.5. Online Content specifically directed at Children must with reasonable care deal with themes which could influence Children to imitate acts which they see on screen or hear about, including, but not limited to, dangerous acts involving items such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys.

4.6. Online Content specifically directed at Children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.

- 4.7. Online Content specifically directed at Children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.
- 4.8. Online Content specifically directed at Children must not contain frightening or otherwise excessive special effects not required by the story line.
- 4.9. Offensive language, including profanity and other religiously insensitive material, must not be included in content specially designed for Children.

5. Sexual Conduct

- 5.1. The Signatory must not make Online Content available which, judged within context, contains a scene or scenes, simulated or real, of any of the following:
 - 5.1.1. Child Pornography;
 - 5.1.2. bestiality;
 - 5.1.3. Sexual Conduct which degrades a person in the sense that it advocates a particular form of hatred based on gender and which constitutes incitement to cause harm, or which violates the right to human dignity of any person;
 - 5.1.4. explicit Sexual Conduct;
 - 5.1.5. explicit extreme violence or the explicit effects thereof; or
 - 5.1.6. explicit infliction of domestic violence.
- 5.2. Sub-clause 5(1) shall not be applicable to bona fide scientific, documentary, dramatic or artistic material which, judged within context, is of such a nature.

6. User Advisories

- 6.1. Where Online Content contains violence, sex, nudity and/or offensive language the Signatory must, where possible, provide advisory assistance including, when applicable, guidelines as to age. The advisory may be a prior audio or visual warning, an advisory on the EPG listing, or a warning within the content itself.
- 6.2. The following advisory age system may be used: 10, 13, 16 and 18. The following symbols may be used in accordance with the relevant Online Content: V (violence), L (language), N (nudity), S (sex), PG (parental guidance), D (drugs/substance abuse), SV (sexual

violence) and H (horror).

7. Classification by Films and Publications Board

- 7.1. Where a Film and Publication Board classification for a film exists in terms of the Films and Publications Act, such classification may be used as a guideline for an advisory to the film.
- 7.2. No film which is refused classification, or which carries an XX classification in terms of the Films and Publications Act may be provided.

8. Parental control mechanisms

- 8.1. If a Signatory's Online Content Service is able to offer a secure mechanism to block a programme, based on the classification of such programme, a Signatory should inform its users of the parental control mechanism available and make a parental control guide available to users on how to use the parental control mechanism. A copy of the parental control guide should be made available on the Signatory's website.

9. News

- 9.1. News must be reported truthfully, accurately and fairly.
- 9.2. News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:
 - 9.2.1. Distortion, exaggeration or misrepresentation;
 - 9.2.2. Material omissions; or
 - 9.2.3. Summarisation.
- 9.3. Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact, and such fact must be stated fairly with reasonable regard to context and importance.
- 9.4. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case.
- 9.5. Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified. Where such verification is not practicable, that fact must be mentioned in the report.

- 9.6. Where it subsequently appears that a report was incorrect in a material respect, it must be rectified forthwith, without reservation or delay. The rectification must be presented with such a degree of prominence and timing as in the circumstances may be adequate and fair so as to readily attract attention.
- 9.7. The identity of rape victims and other victims of sexual violence must not be divulged, whether as part of news or not, without the prior valid consent of the victim concerned.

10. Comment

- 10.1. In making available comment on and criticism of any actions or events of public importance in their Online Content, a Signatory must make reasonable efforts to ensure that comment must be an honest expression of opinion and must be presented in such a manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.
- 10.2. Where a person has stated that they are not available for comment or such a person could not reasonably be reached, this must be stated.

11. Controversial Issues of Public Importance

- 11.1. In making available Online Content in which a controversial issue of public importance is discussed, a Signatory must make reasonable efforts to fairly present opposing points of view either in the same Online Content or in other, related Online Content.
- 11.2. A person whose views are to be criticised in Online Content concerning a controversial issue of public importance must be given the right to reply to such criticism in the same or in related Online Content.

12. Privacy, Dignity and Reputation

- 12.1. The Signatory must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.
- 12.2. In the protection of privacy, dignity and reputation special weight must be afforded to South African cultural customs concerning the privacy and dignity of people who are bereaved and their respect for those who have passed away.

12.3. In the protection of privacy, dignity and reputation special weight must be afforded to the privacy, dignity and reputation of Children, the aged and the physically and mentally disabled.

13. Publication of the Code

13.1. Each Signatory shall take steps to publish this Code and the complaints procedure.

14. Interpretation and amendment of the Code

14.1. This Code of Conduct is subject to interpretation in the light of changing circumstances.

14.2 This Code of Conduct may be amended in accordance with clause 19 of the BCCSA .
