



# TG4 Programme Standards & Journalism Guidelines



## Introduction

TG4's Programme Standards & Journalism Guidelines outline TG4's legal obligations and responsibilities in respect of content, together with its editorial principles. It also demonstrates TG4's objective and commitment to achieving the highest standards of content.

This document replaces the TG4 Programme & Standards Guidelines 2019 and the TG4 Journalism and Contentious Content Guidelines 2019. The TG4 Compliance Policy (2024) has been updated and the latest Compliance Policy is set out in the First Schedule.

TG4 is the national Irish language television service established in 1996 and funded by Government to deliver a full range of high quality Irish language content to audiences at home and abroad. It is a statutory Public Service Broadcaster.

TG4's mission is as follows: Our public service mission is to deliver entertaining and innovative media services that celebrate Irish language creativity and connect with audiences at home and worldwide. Through partnership with the Irish language audio-visual sector, we enable the creation of world-class content and support economic growth in Ireland.

TG4's statutory mandate is detailed in the Broadcasting Act 2009 as amended by the Online Safety and Media Regulation Act 2022 (the "Act") with its objects specified in Section 118 of the Act. The Act also sets out the broadcasting codes/rules and duties framework for all broadcasters and on-demand providers. Fundamental to everything TG4 does is a commitment to adhering to its statutory mandate and statutory duties and to Coimisiún na Meán's broadcasting and on-demand rules and codes.

TG4's Programme Standards & Journalism Guidelines have been updated in view of the changes to the statutory and regulatory obligations which apply to TG4.

These TG4 Programme Standards & Journalism Guidelines apply to TG4 staff and to all programme makers (both internal and external) and they therefore apply to TG4's internal productions and to the independent production sector in respect of programming produced for TG4. TG4 staff and all programme makers must familiarise themselves with the TG4 Programme Standards & Journalism Guidelines.

The RTE Journalism Guidelines apply to news and other content supplied by RTE to TG4 as part of the hour per day and programme makers involved in the production of the hour per day content should comply with the RTE Journalism Guidelines, the Act and Coimisiún na Meán codes and rules.

TG4 scheduling staff should comply with the TG4 Programme Standards & Journalism Guidelines when scheduling the hour per day content.

TG4 staff will ensure that acquired content complies with Act and the Codes and Rules.

## TG4's Statutory Mandate & Responsibilities

TG4's statutory mandate is detailed in the Act. Under the legislation, TG4 is required to provide a national television broadcasting service as a free-to-air public service which is made available to the whole community on the island of Ireland. This is for the purposes of promotion and development of the Irish language and the preservation of Irish culture.

The key sections of the Act which are of relevance for programme makers (both internal and external) are Section 118 and Part 3B which set out the duties, codes and rules pertaining to broadcasters and on-demand providers, to which TG4 must adhere.

TG4's objects are specified in Section 118(1) of the Act and include the following:

1. To establish and maintain and operate a public service free-to-air national television broadcasting service;
2. To establish and maintain a website and teletext services;
3. To establish and maintain archives and libraries;
4. To establish and maintain a public service television broadcasting service to be made available to Irish communities outside of the island of Ireland;
5. To establish and maintain on-demand media services;
6. To make the service available on all platforms; and,
7. To exploit such commercial opportunities as may arise in the pursuit of its other statutory objects.

In the fulfilment of its objects, Section 118(3) states that TG4 is specifically mandated to provide a comprehensive range of programmes:

- primarily in the Irish language;
- that reflect the cultural diversity of the whole island of Ireland;
- that entertain, inform and educate;
- that provide coverage of sporting, religious and cultural activities;
- of news and current affairs, primarily in the Irish language;
- for all age groups; and,
- that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament.

TG4 is also mandated to facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.

Section 118(2) also states that in pursuit of TG4's objects, it shall

*"(a) be responsive to the interests and concerns of the whole community, be mindful of the need for understanding and peace within the whole island of Ireland, ensure that the programmes reflect the varied elements which make up the culture of the people of the whole island of Ireland, and*

*have special regard for the elements which distinguish that culture and in particular for the Gaeltachtaí;*

*(b) uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression;*

*(c) have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including in particular those of other Member States".*

TG4 must adhere to Part 3B of the Act which sets out the duties, codes and rules pertaining to broadcasters and on-demand providers.

## **Public Service Statement/Principles in Fulfilment of TG4's Public Service Objects**

TG4 is required by the Act to produce a Public Service Statement every 5 years which is submitted to the Minister for approval. TG4 has set down principles for the organisation, through which it delivers on its public service objects and these principles are presented in its Public Service Statement. When the Public Service Statement is updated as required in due course it will reference the new on-demand obligations and other obligations under the Act and under the Codes and Rules. The principles in the Public Service Statement which is currently in place are set out at the following link.

[Public Service Statement](#)

## **Editorial Principles**

TG4 will maintain the highest standards of editorial integrity and deliver a diverse range of high quality programming which the public can trust.

While TG4 has the right to freedom of expression, this right is accompanied by responsibilities. TG4 commits to responsible broadcasting. TG4 content should be produced without fear of censorship, but with an understanding of its potential impact in a manner which protects the viewers and which facilitates viewers in understanding subjects of public importance and informs them in the public interest.

Programming will comply with TG4's statutory and regulatory obligations including the obligation not to cause harm or undue offence in programming content and the obligations in relation to fairness objectivity and impartiality in news and current affairs and in relation to matters which are either of public controversy or the subject of current public debate.

Quite apart from the obligations which apply to TG4, the Board of TG4 has a specific statutory duty in respect of news and current affairs. S87(c) of the Act requires the Board to ensure that the gathering and presentation by TG4 of news and current affairs is accurate and impartial. TG4 will comply with this requirement.

The Board also has a statutory duty under the Act to “safeguard the independence of the corporation, as regards, the conception, content and production of programmes, the editing and presentation of news and current affairs programmes and the definition of programme schedules from State, political and commercial influences.” TG4 will comply with this requirement.

The welfare of those who contribute to our content is important to TG4.

## **Editorial Responsibility**

S89(2)(b) of the Act specifies that the Director General is the editor in chief of all content published by TG4. In practice TG4 staff involved in content creation or in commissioning or acquiring content must take editorial responsibility for the content, notwithstanding that the Director General has ultimate statutory responsibility as the editor in chief. In the event of uncertainty in relation to an editorial matter TG4 staff can seek guidance from the legal department, the Compliance Commissioning Editor, or the Meitheal Eagarthóireachta which has a role in maintaining content standards.

The Meitheal Eagarthóireachta is chaired by the Compliance Commissioning Editor and currently includes the Stiúrthóir Oibríochtaí & Acmhainní Daonna, Ceannaire Nuachta & Cúrsaí Reatha, the Bainisteoir Sceidil Ilárdán and the Bainisteoir Coimisiúnaithe. The membership of the Meitheal Eagarthóireachta may change from time to time.

## **Independence of TG4**

The Board has a specific statutory duty in S87 of the Act which requires the Board to “safeguard the independence of the corporation, as regards, the conception, content and production of programmes, the editing and presentation of news and current affairs programmes and the definition of programme schedules from State, political and commercial influences.”

## **Controls on Interests and Ethical Behaviour**

TG4 has a Code of Conduct for Employees and the Board which details the controls on interests and ethical behaviour required of employees and the Board of TG4.

## **Code of Conduct for Suppliers of Commissioned Programmes**

TG4 relies on production companies to supply commissioned programmes to TG4. Production companies are required to operate to the highest standards which are in line with TG4's values. The Code of Conduct for Suppliers of Commissioned Programmes sets out TG4's principles and expectations as to how organisations (including their employees and contractors) who supply commissioned programming to TG4, are expected to behave when supplying commissioned programming to TG4. Production companies are required to have policies in place to deal with conflicts to ensure they are handled appropriately and that they do not impact on the legitimacy of decision making and the delivery of programming to TG4. [Code-of-Conduct-forSuppliers-of-Commissioned-Programmes-2024-EN.pdf](#)

## **Welfare of Contributors**

The welfare of those who contribute to our content is important to TG4. Production companies are required to safeguard the welfare of contributors.

## **Statutory Duties which apply to Content under the Act**

Broadcasters and on-demand providers are not permitted to broadcast or make available content which: causes harm or undue offence; incites crime; contravenes EU rules on combatting terrorism; incites violence or hatred against certain groups; or undermines the authority of the State. Due regard must be had to the appropriateness of and/or editorial justification for the inclusion in programme material of violence, sexual content and offensive language. The Act imposes obligations in relation programming and the environment. The Act also provides that programme material relating to gratuitous violence or sexual conduct should be presented with due sensitivity to the convictions or feelings of the audience, and in such a way that children will not normally hear or see anything which may impair their physical, mental or moral development. Broadcasters and on-demand providers must not unreasonably encroach on an individual's privacy in the programmes or in the means of producing the programmes. Appropriate scheduling/warnings/descriptive classifications/helplines are required under the Act. Broadcasters and on-demand providers must also comply with the obligations in the Act in relation to News and Current Affairs content.

The Coimisiún na Meán codes/rules impose additional obligations in relation to these matters.

Extracts from the Act are set out in the Second Schedule. The entire Act is available at the following link: <https://revisedacts.lawreform.ie/eli/2009/act/18/front/revised/en/html>

Programme makers must comply with these requirements.

## Coimisiún na Meán Codes and Rules

The Coimisiún na Meán Codes and Rules governing standards and practice for broadcasters and on-demand providers must be observed.

Programme makers must comply with these requirements.

## Code of Programme Standards

Coimisiún na Meán has developed a Code of Programme Standards to which TG4 must adhere in respect of linear content. Complaints in respect of any alleged breach of the Act or the Coimisiún na Meán codes or rules may be made to Coimisiún na Meán.

Programme makers must be fully familiar with, and comply with, the Coimisiún na Meán Code of Programme Standards as updated from time to time, which is available on its website. [Code of Programme Standards - November 2024](#)

The Code of Programme Standards is set out in the Third Schedule.

## Protection from Harm and Undue Offence

Programme makers will comply with the Act and the Code of Programme Standards to ensure that TG4 does not broadcast anything which may reasonably be regarded as causing harm or undue offence.

Undue offence is described as follows in the Code of Programme Standards: *However, while still subjective, **undue offence** can be considered to be programme material that, taking into account contextual factors such as editorial justification and the public interest, amongst others, could still be regarded as having crossed a line that has resulted in an individual or group of individuals being caused to suffer serious or widespread offence, beyond what can reasonably be justified.*

Harm is described as follows in the Code of Programme Standards: ***Harm*** is less subjective. Harmful material is material that may cause mental, psychological or physical harm. Individuals should not be harmed by programme material and the Code aims to prevent harm to viewers and listeners, in particular children. While parents and guardians have primary responsibility for content that children access on television and / or radio, broadcasters can, in order to prevent harm to children, support the parent / guardian relationship with their child / children by scheduling responsibly and through general compliance with this Code. While acknowledging that harm and undue offence are two distinct concepts, content that has caused undue offence can become harmful in certain circumstances.

Programme makers must have regard to the matters detailed in the Code of Programme Standards when assessing whether programme material may reasonably be regarded as causing harm and/or undue offence.

Appropriate scheduling, prior warnings, appropriate descriptive classification and helpline details are required.

## **Violence, Sexual Content and Offensive language**

Programme makers will comply with the Act and the Code of Programme Standards which requires the following for all content (including children's content):

*13.1 Broadcasters shall ensure that they have due regard to the appropriateness of and/or editorial justification for the inclusion in programme material of the following content: -*

- i. violence.
- ii. sexual content.
- iii. offensive language.

*13.2 Broadcasters shall be alert to, and guard against, the use of 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.*

## Protection of Children

TG4 and programme makers will protect the welfare of children who participate in programming. Providers of children's content will have in place and follow an appropriate Child Protection Policy. TG4 will comply with the TG4 Child Protection Policy and Procedures.

TG4 and programme makers will protect children from programme content.

Providers of children's content will ensure that children's content is suitable for transmission pre watershed.

Special care must be taken in respect of programmes which concern children and illegal and/or anti-social behaviour and their identity must not be revealed.

Programme makers and TG4 will comply with the requirements in the Act and Coimisiún na Meán codes and rules in relation to protection of children.

The Code of Programme Standards requires that sufficient information be provided to audiences about content which may impair the physical, mental or moral development of children. It further requires TG4 to use a system describing the potentially harmful nature of the content on its service. Information provided to audiences will be displayed at the beginning of a programme and, if appropriate to do so, after a programme returns from a commercial break.

As required by the Act programme makers will ensure that programme material relating to gratuitous violence or sexual conduct is presented— (i) with due sensitivity to the convictions or feelings of the audience, and (ii) in such a way that children will not normally hear or see anything which may impair their physical, mental or moral development.

Programme makers and TG4 will comply with the Code of Programme Standards which requires that the broadcaster take "appropriate measures" to ensure that programmes containing content which may impair the physical, mental or moral development of children, including, but not limited to:

- (a) content consisting of pornography,
- (b) content consisting of gratuitous violence, are only made available in such a way

as to ensure that children will not normally hear or see them.

The Code of Programme Standards gives example of the types of measures which can be taken by the broadcaster which include prior content warnings, appropriate scheduling or other measures which achieve an equivalent outcome. The measures taken must be proportionate to the potential for the programme to harm children and the factors to consider include: -

- i. The likely degree of harm potentially caused by the programme content.

- ii. The likelihood of children accessing the content.
- iii. The nature of the service and its likely audience.

The most harmful content, such as gratuitous violence and pornography, must be subject to the strictest measures.

The nature of the appropriate measures will differ as between the linear and on-demand schedule.

TG4 will schedule children's content pre – watershed on the linear channel.

TG4 has a specific genre for children's programmes on the TG4 player. Only children's programming will be included in the Children's Genre on the TG4 player. All Cúla4 content is displayed in the Children's Genre. TG4 provides a Parental Guide on all player content and all such content is rated in one of the following categories: G, PG, 12, 12A, 15, 15A, 16, 18. The Parental Guide is displayed with all content on the TG4 player.

Programme makers will comply with the obligations in relation to children in the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

Programme makers will comply with rules about product placement in the General Commercial Communications Code including the prohibition on product placement in children's programmes.

TG4 will comply with the requirements in relation to commercial communications (including the specific obligations in relation to children) in the General Commercial Communications Code and the Children's Commercial Communications Code.

## **Respect for Persons and Groups in Society/ Incite to violence or hatred**

Programme makers will comply with the provisions of the Act and the Code of Programme Standards which prohibit content that may be reasonably regarded as likely to incite to violence or hatred based on the grounds mentioned in Article 21 of the European Charter of Fundamental Rights. These grounds are sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

## Protection of the Public Interest

Programme makers will comply with the provisions of the Act and the Code of Programme Standards which seek to protect the public interest by prohibiting (i) anything which may reasonably be regarded as likely to promote, or incite to, crime, and (ii) content promoting or inciting terrorism.

Terrorist content is defined in EU law as material that:

- incites the commission of terrorist offences, such as by the glorification of terrorist acts;
- advocates the commission of terrorist offences;
- solicits a person or a group of persons to commit or contribute to the commission of terrorist offences;
- incites, solicits, threatens or provides instruction on the commission of terrorist offences;
- solicits a person or a group of persons to participate in the activities of a terrorist group;
- provides instruction on the making or use of explosives, firearms, or other weapons, or noxious or hazardous substances, or other specific methods or techniques for the purpose of committing or contributing to the commission of terrorist offences;
- constitutes a threat to commit a terrorist offence

Programming will not encourage behaviour or views that are grossly prejudicial to the protection of the environment and information in respect of current developments in respect of environmental matters will be given in a manner that gives due weight to the balance of contemporary scientific knowledge.

As part of TG4's Gaeilge, Environment, Social and Governance (GESG) initiative, TG4 is a member of Sustainable Media Ireland which is a sustainability network to promote and enable positive action on sustainability across Ireland's media sector. In addition, TG4 is working with albert to achieve higher standards of environmental sustainability within the screen production industry in Ireland. All productions commissioned by TG4 are required to use the albert carbon calculator to monitor carbon footprint.

## Privacy

Programme makers will ensure that any encroachment on the privacy of an individual in a programme or in the means employed to make a programme is not unwarranted, having regard to the provisions of the Act and the Code of Programme Standards, in particular, the protection of the public interest. Any such encroachment will be reasonable, proportionate and limited to the degree that is required to inform the audience in the public interest.

Care must be taken in respect of privacy when filming in sensitive places such as medical settings, schools, prisons or police stations and when filming on private property.

Care must be taken when sourcing content from public platforms including social media platforms, to protect the privacy of those featured in the content, in particular when the person featured did not make or post the content on the public platform.

Blurring should be carried out as required.

Programme makers will comply with the obligations in the Act and in the Code of Programme Standards in relation to privacy including the protection of the privacy of children/vulnerable persons.

## **Public Interest Justification**

There are times when programme makers must balance respect for privacy on the one hand with the public interest in disclosing information and freedom of expression on the other hand. Publication must be justified in the public interest.

Public interest includes freedom of expression; providing information that assists people to better comprehend or make decisions on matters of public importance; and preventing people being misled by the statements or actions of individuals or organisations. The public interest is also served in exposing or detecting crime or significantly anti-social behaviour and by exposing corruption, injustice, significant incompetence or negligence.

Programme makers acknowledge that an individual is to be judged for their public acts, not private ones. In this case, 'private' should be taken to mean issues to do with personal relations, personal communications, beliefs and past affiliations unless these can be shown to be directly and significantly relevant to the performance of their public duties. The test is always the impact on public actions or duties.

Allegations to be made should normally be put to the individual, organisation or company concerned for a response.

## **Secret Recording/ Code of Programme Standards and Code of Fairness, Objectivity and Impartiality in News and Current Affairs**

Programme makers will comply with the Code of Programme Standards which requires that surreptitious filming or recording is only used where it is warranted.

The use of secret or undisclosed recording or filming in current affairs content shall only be used in exceptional circumstances and only in accordance with the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The item being covered must be demonstrably in the public interest and there must be evidence of matter that merits coverage.

The consent in writing of the Commissioning Manager or the Ceannaire Nuachta agus Cúrsaí Reatha (as applicable) is required prior to use of secret or undisclosed recording or filming.

## **Code of Fairness, Objectivity and Impartiality in News and Current Affairs**

This Code details the rules which broadcasters must adhere to in respect of linear content. Under the Act objectivity and impartiality are required in respect of news and there is no obligation in the Act in respect of fairness for news. However, the Code of Fairness, Objectivity and Impartiality in News and Current Affairs requires fairness, objectivity and impartiality in respect of news and current affairs and in respect of the coverage of matters which are either of public controversy or the subject of current public debate. Complaints in respect of any alleged breach of the Act or the Coimisiún na Meán codes or rules may be made to Coimisiún na Meán.

Programme makers must be fully familiar with, and comply with, the Coimisiún na Meán Code of Fairness, Objectivity and Impartiality in News and Current Affairs as updated from time to time, which is available on its website. [Code-of-Fairness-Objectivity-Impartiality-December-2024](#)

The Code of Fairness Objectivity and Impartiality in News and Current Affairs is set out in the Fourth Schedule.

## **Gender Balance in News and Current Affairs**

The Act allows Coimisiún na Meán to make codes providing for standards and practices to promote balanced gender representation of participants in news and current affairs programmes.

TG4 will comply with any such codes if they are published by Coimisiún na Meán.

## **Re-use of material and reconstructions/re-enactments**

The fairness obligation in the Code of Fairness Objectivity and Impartiality in News and Current affairs requires programme makers to ensure that the re-use of any material in a news or current affairs context, including the use of archive material, does not create unfairness or result in inaccuracies.

The fairness obligation in this Code also requires that the re-construction or re-enactment of an event in news or current affairs content will be clearly identified as such and should be authentic in its depiction of the events in question.

Programme makers should consider surviving victims and relatives if it is proposed to examine past events which involved suffering and trauma and in so far as is reasonably practicable, surviving victims or the immediate families of dead people who are to feature in the programme should be notified of the proposed plans.

## **Reporting in sensitive situations**

Programme makers must be mindful when reporting in sensitive situations (such as sieges, hostage taking etc) to ensure that the reporting does not influence the outcome of the sensitive situation and they will comply with any advice from the Gardai in these situations.

## **Reporting tragedies and emergencies**

Programme makers must balance the public interest in full and accurate reporting with the need to avoid unwarranted encroachment on privacy when reporting personal tragedies and emergencies.

Programme makers will comply with the Code of Programme Standards which requires programme makers to have due regard to 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; and will have due regard to the impact that coverage and repeated coverage of death may have on the families and friends of the deceased.

## **Suicide**

Programme makers must take care when portraying suicide or attempted suicide in factual programming or drama because such content could cause harm.

Programme makers will comply with the Code of Programme Standards in relation to this matter and all applicable guidelines.

## **Drugs, alcohol, or solvents or the use of illegal drugs**

Programme makers will comply with the Code of Programme Standards which requires that programme material does 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. This is a higher burden than editorial justification which is required elsewhere in the Code of Programme Standards in respect of other matters.

## **Religion**

The Act requires TG4 to provide coverage of religious and cultural activities.

Religion or Belief: Programme makers will comply with the provisions of the Act and the Code of Programme Standards which prohibit content that may be reasonably regarded as likely to incite to violence or hatred based on grounds mentioned in Article 21 of the European Charter of Fundamental Rights. These grounds include religion or belief.

Programme makers will comply with the provisions of the Act and the Code of Programme Standards which require that programme material only emphasises certain matters including religion or belief when such references are justified.

Programme makers will comply with requirements in the Code of Programme Standards to ensure that they show due respect for religious views, images, practices and beliefs in programme material. Critical scrutiny of religion by means of information, drama or other programming is permitted.

As required by the General Commercial Communications Code TG4 will not permit sponsorship of religious programmes and programme makers will not include product placement in religious programmes.

TG4 will not publish advertisements or sponsorship which discuss the merits of adhering to or joining a religion.

## **Game Shows/Quizzes/Participants**

The choice of contestants in games shows/quizzes should not bring TG4 into disrepute and steps should be taken by programme makers to ensure that unsuitable contestants are not included.

In addition, programme makers should ensure that the choice of participants in other commissioned content does not bring TG4 into disrepute.

## **Political Interference, Political Coverage, Political Beliefs**

**Political Interference:** The Board of TG4 has a statutory duty to safeguard programme schedules from State and political influences. TG4 will comply with this obligation.

**Political Coverage:** TG4 will comply with the obligations in the Code of Fairness, Objectivity and Impartiality in News and Current Affairs which permits party political programmes, provided that an unfair preference is not given to any political party, either in the allocation of time for such programmes, or in the positioning of such programmes in the on-demand service.

**Political Beliefs:** programme makers will comply with the provisions of the Act and the Code of Programme Standards which prohibit content that may be reasonably regarded as likely to incite to violence or hatred based on grounds mentioned in Article 21 of the European Charter of Fundamental Rights. These grounds include political or any other opinion.

Programme makers will comply with the provisions of the Act and the Code of Programme Standards which requires that programme material only emphasises certain matters including political or any other opinion when such references are justified.

**Commercial communications:** TG4 will not make available advertisements or sponsorship which are for political ends. Exceptions are made for party political programmes and advertisements requested by the Referendum Commission concerning a referendum.

## **Election and Referenda Coverage**

TG4 and programme makers will comply with the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in respect of coverage of elections and referenda.

TG4 and programme makers will comply with guidelines or codes of practice issued from time to time by the Coimisiún na Meán and issued by TG4 in respect of elections and referenda.

## **General Commercial Communications Code and Children's Commercial Communications Code**

Programme makers must be fully familiar with, and comply with, the General Commercial Communications Code which includes rules in relation to product placement, competitions and premium rate calls.

TG4 will comply with the requirements in relation to commercial communications (including the specific obligations in relation to children) in the General Commercial Communications Code and the Children's Commercial Communications Code.

The obligations under the Act include the following in relation to commercial communications:

- Advertisements should be clearly distinguishable from editorial content. They should not be misleading and should adhere to ethical standards.
- TG4 shall not broadcast advertisements that are for political ends or related to industrial disputes, however exceptions are made for party political programmes and advertisements requested by the Referendum Commission concerning a referendum.
- TG4 shall not broadcast advertisements which discuss the merits of adhering to or joining a religion.
- The Act provides that codes may provide for standards and practices to ensure that commercial communications: (i) protect the interests of the audience, and (ii) in particular, where they relate to matters likely to be of direct or indirect interest to children, protect the interests of children having particular regard to the general public health interests of children.
- The Act provides that the Code may prohibit or restrict advertising around children's programme of certain foods for example – high fat, high salt foods etc.

There is guidance on these obligations in the General Commercial Communications Code and the Children's Commercial Communications Code. Violations of the statutory obligation or of the Codes is a contravention under Part 8B of the Act.

These codes are available on Coimisiún Na Meán's website.

<https://www.cnam.ie/app/uploads/2025/01/General-Commercial-Communications-Codev2.pdf>

## **Competitions**

Programme makers must comply with the General Commercial Communications Code in respect of competitions.

Programme makers must ensure that sponsored audience competitions within programmes do not constitute advertising. The General Commercial Communications Code requires that participants in competitions must have a fair chance of winning a sponsored competition and that pertinent information must be made available to the audience which will include: how to enter the

competition; closing times and dates; the means by which a winner is selected; key terms and conditions that would void entry or prohibit a winner from taking up the prize; how to access the full set of terms and conditions in relation to the competition; and any changes to the competition terms and conditions and/or processes and/or prize.

## **Handling of Social Media Contributions**

Programme makers verify texts and other social media material before they are published and they are careful of bogus accounts and fake news. The provenance of material from websites or social media sites is checked before use and programme makers consider whether a contribution has been supplied by a member of a lobby group or organisation with a vested interest, or a disinterested bystander.

Content may only be used where programme makers have permission to use the content.

Programme makers ensure that comment and analysis and opinion pieces from outside contributors include a disclaimer such as the following: “The views expressed here are those of the author and are not the views of TG4.” Similarly links to third party sites should contain a similar disclaimer.

TG4 staff will comply with TG4’s Social Media Guidelines.

## **Child Participant Consent**

A child is a person under 18 for the purposes of the Act and the codes and rules. However, for the purposes of consent to participation a child is a person under 16. Programme makers will comply with the requirements of the Code of Programme Standards in relation to consent for children and vulnerable persons and comply with the prohibition on processing children’s data for commercial purposes. Informed consent is required.

Programme makers will ensure that they obtain consent where programme material, or the means employed to make programme material, directly involves a vulnerable person or a child less than 16 years of age. Consent will be sought from the vulnerable person or child, if possible, and from a parent, guardian, nominated representative or person responsible for the primary care of a vulnerable person or a child. TG4 will give due consideration to indications of withdrawal of consent, having regard to the provisions of the Code, in particular, the protection of the public interest and other circumstances that may arise, such as contractual relationships.

In respect of news and current affairs, programme makers will comply with the Code of Fairness Objectivity and Impartiality in News and Current Affairs. This requires that care shall always be taken with the inclusion of interviews with children or vulnerable people in news or current affairs content and that in all cases, the over-riding principle must be to avoid the broadcast or availability of material that may be unfair or detrimental to their best interests.

A decision to broadcast or make available a news or current affairs interview with a child in the absence of the required consent must be justified in the public interest and requires the written consent of the Commissioning Manager or Ceannaire Nuachta agus Cúrsaí Reatha as applicable.

## **Advertising Limits**

TG4 will comply with the Media Service Code & Rules (Advertising, Teleshopping, Signal Integrity & Information) including the requirements in respect of advertising limits on commercial communications around linear content and with the Media Service Code and Rules (Audiovisual On-Demand Media Service Providers) and advertising limits in respect of commercial communications in on-demand content.

## **Access for people with disabilities**

TG4 will comply with the Coimisiún na Meán Access Rules which apply to access to linear content and the Media Service Code and Rules (Audiovisual On-Demand Media Service Providers) in relation to on-demand content to ensure that programmes which are produced are made continuously and progressively more accessible to people with disabilities.

TG4 has drafted a Code of Practice for Handling Access Complaints together with an Access Complaints form to deal with complaints by the audience that TG4 has not complied with its access obligations under the Act and the access targets set by Coimisiún na Meán. These documents are available on the TG4 website. <https://tg4.ie/en/corporate/corporate-governance/>

TG4 has an Access Liaison Officer as required by the Act in respect of the access obligations. The Access Liaison Officer is the point of contact with the audience and Coimisiún na Meán in respect of formal access complaints.

## **Media Service Code and Rules (Audiovisual On-Demand Media Service Providers)**

The Media Service Code and Rules (Audiovisual On-Demand Media Service Providers) are the rules for audiovisual on-demand providers which require the restriction of on-demand content that may

incite hatred, which provides protections for children from accessing inappropriate content and which obliges on-demand providers to ensure their programmes are accessible for people with disabilities. It also includes obligations in relation to commercial communications in respect of on-demand content. All of the Coimisiún na Meán rules governing on-demand content are contained in this one On-Demand Code. In addition, there are obligations which are included in the Act which apply to both linear and on-demand content, but which are not repeated in this On-Demand Code, but these obligations in the Act also apply to on-demand content. Complaints in respect of any alleged breach of the Act or the Coimisiún na Meán codes or rules may be made to Coimisiún na Meán.

Programme makers must be fully familiar with, and comply with, the Media Service Code and Rules (Audiovisual On-Demand Media Service Providers) as updated from time to time in respect of on-demand content, which is available on the Coimisiún na Meán website. [Media-ServiceCode-Rules-Audiovisual-On-demand-Media-Service-Providers-November-2024](#)

The Media Service Code and Rules (Audiovisual On-Demand Media Service Providers) are set out in the Fifth Schedule.

## Scheduling

Programming cannot be scheduled after the expiry of the licence period in respect of the programming.

As required by the Code of Programme Standards TG4 will schedule programming (including trailers) appropriately taking into account, amongst other things: - (a) the nature of the programme material, (b) the genre of the programme material, (c) the likely age range of the audience, (d) the nature of the broadcast service, (e) the particular programme and the time of day when children are likely to be watching or listening to programme material ... (f) on television services, the use of the watershed (which operates after 21.00), where appropriate.

TG4 schedules programming at times appropriate for its target audience pre or post watershed as applicable. Warnings and helplines are also required under s14 of the Code of Programme Standards and TG4 complies with this requirement.

Likewise, warnings and appropriate measures are required under s15 of the Code of Programme Standards to protect children. The Code of Programme Standards acknowledges the role of parents as follows: *“While parents and guardians have primary responsibility for content that children access on television and / or radio, broadcasters can, in order to prevent harm to children, support the parent / guardian relationship with their child / children by scheduling responsibly and through general compliance with this Code.”*

The guidance in the Code of Programme Standards in relation to Harm again emphasises the importance of appropriate scheduling/warnings/ helplines.

Commercial Communications must be scheduled appropriately in accordance with the General Commercial Communications Code.

Care is required when scheduling content which was produced some time before transmission to ensure the programme has not been overtaken by events, such as the known death of a contributor, the charging of an offender, or significant life changes. In some cases, an on-air announcement will be required, in others, the alteration or removal of some material.

## **Other Content Obligations**

Quite apart from the statutory obligations in relation to programme content imposed by the Act and obligations imposed by the Coimisiún na Meán codes and rules, other considerations must be borne in mind including compliance with the contract governing the programme content. Programme makers must ensure that material is not included in the programme which will infringe third party copyright. Programme makers must further ensure that the content is not defamatory or in contempt of court and that obligations in relation to reporting the courts are followed.

Programme makers must protect journalistic sources and take care in the use of anonymous sources. Any undertaking given to a contributor relating to confidentiality or anonymity will be honoured by programme makers. Any associated audio-visual techniques utilised in both filming and editing will be carefully applied to ensure complete confidentiality is achieved and commitments given are fully honoured.

## **Subtitles and Dubbing**

Programme makers will ensure that subtitles comply with the TG4 Programme Standards & Journalism Guidelines.

TG4 and dubbing companies will ensure that dubbing complies with the TG4 Programme Standards & Journalism Guidelines.

## **Re-licensing commissioned content**

Care is required when re-licensing commissioned content which is out of rights. It should only be relicensed if it meets the requirements of the Act and Codes/Rules.

## Legal Issues

In the event of legal issues arising TG4 staff should seek guidance from the Legal Department.

## Right of Reply

A Right of Reply will be given as required by the Act and as outlined in the BAI Right of Reply Scheme document (2011) which is available on Coimisiún na Meán's website. [Right of Reply Scheme](#)

The Right of Reply entitles any person whose honour or reputation has been damaged by an assertion of incorrect facts or information in a broadcast to have a right of reply. The right of reply will (i) state to what extent the information contained in the broadcast is incorrect or misleading, and (ii) be limited to factual assertions necessary to rectify an incomplete or otherwise distorting assertion.

A Right of Reply does not provide for the broadcast of an alternative or contrary opinion. A person may not be satisfied with the manner in which a broadcaster has relayed information about him/her, but a Right of Reply will not be granted unless the facts or information are factually incorrect and caused damage to the person such that their honour or reputation was impugned.

## Data Protection

TG4 and programme makers will comply with the prohibition on processing children's data for commercial purposes in the Code of Programme Standards in respect of linear content and in respect of on-demand content in the Media Service Code and Rules (Audiovisual On-Demand Media Service Providers).

TG4 and programme makers will comply with the obligations under applicable Data Protection law including the General Data Protection Regulation.

TG4 will comply with the Privacy Policy on the TG4 website.

## TG4 Accountability

As a Public Service Broadcaster, TG4 is accountable to a broad range of stakeholders, primary amongst which is our audience, the Department of Arts Media Communications Culture and Sport and Coimisiún na Meán. TG4 is accountable for all that it does, including the content and commercial communications it produces, commissions, acquires and broadcasts/makes available, and the way in which it spends its funding in doing this. In this regard, TG4 is governed through a range of supervisory mechanisms which are described in detail in our Public Service Statement. [TG4-Public-Service-Statement-0621.pdf](#)

TG4 welcomes feedback from the audience in Irish or in English. We are committed to responding fully to all complaints we receive about programme standards and other aspects of our output. All programme makers with whom TG4 works, are obliged to participate in this process. TG4's **Code of Practice for Handling Complaint** (which has been approved by Coimisiún na Meán) describes this process and describes the procedures to be followed in the event of a complaint in relation to programming and commercial communications, the relevant contact in TG4 and the time period in which the complaints shall be responded to. [LaimhsiuGearan-B\\_v3.pdf](#)

The Stiúrthóir Oibríochtaí & Acmhainní Daonna is the point of contact with the audience and Coimisiún na Meán in respect of formal content and commercial communications complaints.

A failure to adequately address a complaint can result in the complaint being referred to Coimisiún na Meán with the possibility of a large fine (up to €20m) in the event that Coimisiún na Meán determines that TG4 has breached the Act or a Code/Rule.

TG4 will meaningfully cooperate with any investigation into a breach and take appropriate steps to promptly bring the contravention to an end.

## Consequences of a breach of the Act/Codes/Rules

Coimisiún na Meán may carry out investigations for the purposes of compliance and it can also impose financial sanctions if it decides following an investigation that there has been a breach of the Act/Codes/Rules. The investigative powers of Coimisiún na Meán are very substantial. The sanctions for failure to comply with the Act, Codes and Rules are very substantial.

An authorised member of staff of Coimisiún na Meán called the Authorised Person is nominated to consider the complaint. If necessary, the Authorised Person will refer the complaint to the Authorised Officer in Coimisiún na Meán to carry out an investigation of the suspected contravention. The powers of an Authorised Officer include the powers to enter and search a premises, request that relevant material is handed over, inspect and take extracts of same. An Authorised Officer may request a warrant to be issued to search a premises and be accompanied by a member of the Gardaí. An Authorised Officer prepares a report of the investigation, providing time to respond to the broadcaster/on demand service provider before reaching a final decision as

to whether a contravention has occurred or not and if so, whether to impose a fine. A provider may appeal a decision. The fines are up to €20 million, or up to 10% of turnover of the provider in the financial year preceding the date of the decision. Where an appeal is not made by the provider Coimisiún na Meán must apply to the Circuit Court to have the decision of Coimisiún na Meán confirmed.

In assessing the amount of the fine Coimisiún na Meán will have regard to many factors including the absence or ineffectiveness of internal mechanisms or procedures intended to prevent such a contravention. It is therefore important to have robust internal procedures. In addition, the fine must be proportionate. The Act specifies that the degree of harm to particular people or to the public caused as a result of a breach is one of the factors taken into account by Coimisiún na Meán when deciding the level of a fine in the event of a breach. It will also take account of previous breaches and the nature, gravity and duration of the breach.

## **Compliance System and controls to ensure compliance with the Act/Codes/Rules**

TG4 has systems and controls in place to demonstrate compliance with the obligations contained in the Act, the Codes and the Rules as detailed in the Compliance Policy in the First Schedule.

## **Retention of Records**

Relevant information/consents/research/ records of the steps taken by programme makers and TG4 staff as part of the production/editorial/compliance process are retained forever by programme makers and TG4 staff respectively and are relied upon in the event of a complaint.

## **Amendments to the TG4 Programme Standards & Journalism Guidelines**

TG4 may from time to time, revise and publish amendments to these TG4 Programme Standards & Journalism Guidelines. The most up to date version will be published on TG4's website.

<https://tg4.ie/en/corporate/corporate-governance/>

## Communications with TG4

All feedback and communications are welcomed. They will be handled by:

Áine Lally Communications Manager / Bainisteoir Cumarsáide  
TG4, Baile na hAbhann, Co na Gaillimhe [aine.lally@tg4.ie](mailto:aine.lally@tg4.ie)  
phone: 091 505050

## FIRST SCHEDULE COMPLIANCE POLICY

<https://tg4.ie/en/corporate/corporate-governance/>

## SECOND SCHEDULE EXTRACTS FROM THE ACT

**46J.**— (1) *A broadcaster shall not broadcast, and a provider of an audiovisual on-demand media service shall not make available in a catalogue of the service—*

- (a) anything which may reasonably be regarded as causing harm or undue offence,*
- (b) anything which may reasonably be regarded as likely to promote, or incite to, crime,*
- (c) anything which may reasonably be regarded as conduct falling within Article 5 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA,*
- (d) anything which may reasonably be regarded as likely to incite to violence or hatred directed against a group of persons, or a member of a group, based on any of the grounds referred to in Article 21 of the Charter, or*
- (e) anything which may reasonably be regarded as tending to undermine the authority of the State.*

*(2) A failure to comply with subsection (1) shall be a contravention for the purposes of Part 8B.*

**46K.**— (1) A broadcaster shall ensure that, in programmes broadcast by the broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon.

(2) A provider of an audiovisual on-demand media service shall ensure that in programmes included in a catalogue of the service, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon.

**46L.** (1) A broadcaster, in programmes which he or she broadcasts, and a relevant media service provider, in programmes which he or she makes available in a catalogue of the relevant service, shall ensure—

(a) that news is reported and presented in an objective and impartial manner and without any expression of the broadcaster's or provider's own views, and

(b) that the 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 matter broadcast or made available is presented in an objective and impartial manner and without any expression of the broadcaster's or provider's own views.

(2) Should it prove impracticable to apply subsection (1)(b) in relation to a single programme, 2 or more related programmes may be considered as a whole, if—

(a) where the programmes are broadcast, they are broadcast within a reasonable period of each other, or

(b) where the programmes are made available on a relevant service, they are made available in the same way on the relevant service within a reasonable period of each other.

(3) Nothing in subsection (1) prevents a broadcaster from broadcasting, or a relevant media service provider from making available, party political programmes, provided that an unfair preference is not given to any political party—

(a) by a broadcaster, in the allocation of time for such programmes, or

(b) by a relevant media service provider, in the positioning of such programmes in a catalogue of the relevant service.

(4) Subsection (1), in so far as it requires a broadcaster or a relevant media service provider not to express his or her own views, does not apply to news or current affairs relating to a proposal which—

*(a) concerns policy as regards broadcasting which is of public controversy or the subject of current public debate, and*

*(b) is being considered by the Government or the Minister.*

*.....*

*(8) A failure to comply with this section shall be a contravention for the purposes of Part 8B.*

## **THIRD SCHEDULE CODE OF PROGRAMME STANDARDS**



Coimisiún  
na Meán

# Media Service Code

## Code of Programme Standards

### (Radio and Television Broadcasters)

Publication date: November 2024



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# 1. Introduction

- 1.1 Pursuant to Section 46N(1) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, (the “**Act**”) Coimisiún na Meán (the “**Commission**”) may make codes (“**media service codes**”) governing the standards and practices of broadcasters.
- 1.2 Pursuant to Sections 46N(2)(a), (b) (c), and (e) of the Act, the Commission may make media service codes providing for standards and practices to ensure that programme material protects the interests of the audience.
- 1.3 Pursuant to Section 46N(5) of the Act, the Commission shall make media service codes providing for the matters required to be provided for by Articles 5, 6(1), 6a(1) to (3), 7b, 8, 9, 10, 11, 15, Chapter VI, and Chapter VII (other than Article 26) of Directive (EU) 2010/13 (as amended by Directive (EU) 2018/1808) (the “**Audiovisual Media Services Directive**”) (except in so far as provision is made by media service rules).
- 1.4 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the “**Code**”).
- 1.5 Pursuant to Section 46N(11)(c) of the Act, the BAI Code of Programme Standards dated 1 March 2015 was continued in force with the establishment of the Commission.
- 1.6 The Code replaces the 2015 BAI Code of Programme Standards, which will be revoked as of 5 November 2024, being the date this Code takes effect.

# 2. Scope and Jurisdiction

- 2.1 The Code gives effect to Articles 6(1) and 6a(1) to (3) of the Audiovisual Media Services Directive in Ireland, in so far as they relate to broadcasters.
- 2.2 The Code only applies to broadcasters under the jurisdiction of the State within the meaning of Section 2A of the Act.

# 3. Purpose and Application of the Code

## Purpose

- 3.1 The purpose of the Code is to ensure that broadcasters that are under the jurisdiction of the State comply with the duties set out in the Act relating to the broadcasting of programme material on their services.

## **Preparation of the Code**

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -
- the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
  - the likely size and composition of the potential audience for programme material.
  - the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
  - the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
  - the desirability of securing that a broadcaster informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
  - the desirability of maintaining the independence of editorial control over programmes.
- 3.3 The Code has been prepared in accordance with the procedures provided for by Section 46Q of the Act.

## **4. Regulatory Principles Relevant to the Code**

- 4.1 In its interpretation, application and enforcement of the Code, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.
- 4.2 More particularly, the Commission must act in accordance with:
- its general statutory objectives and functions under the Act.
  - the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.
- 4.3 In its interpretation of the Code, the Commission will have due regard to the right to freedom of expression conferred under Article 40.6.1 of the Constitution, Article 11 of the Charter of Fundamental Rights of the European Union, and Article 10 of the European Convention on Human Rights.

- 4.4 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to broadcasters best serve the needs of the people of the island of Ireland.
- 4.5 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.
- 4.6 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:
- stimulate the provision of high quality, diverse, and innovative programmes by providers of broadcasting services and audiovisual on-demand media services,
  - provide a regulatory environment that will sustain independent and impartial journalism,
  - engage in evidence-based decision-making in the exercise of its functions, and promote evidencebased decision-making by those with which it consults,
  - encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as to how those provisions may be complied with.
- 4.7 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to:  
the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

## 5. Severability

- 5.1 If any provision of the Code is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular broadcaster) in any respect, on the basis of any law (including the Constitution and

European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.

- 5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code shall remain fully effective, applicable and enforceable. To the extent necessary any provision or part of the Code found to be unlawful, invalid, prohibited, unenforceable or inapplicable shall be severed from the Code.

## **6. Waiver**

- 6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by a broadcaster shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the broadcaster has complied with its obligations under the Act and/or the Code.
- 6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code.

## **7. Compliance and Enforcement**

- 7.1 Pursuant to Section 46N(10) of the Act, a failure by a broadcaster to comply with the Code shall be a contravention for the purposes of Part 8B of the Act.
- 7.2 A broadcaster shall ensure that it has systems and controls in place to demonstrate compliance with the obligations contained in this Code.
- 7.3 Pursuant to Section 47(3) of the Act, broadcasters are required to prepare and implement a code of practice for the handling of complaints relating to the failure of the broadcaster to comply with a media service code.

## **8. Complaints**

- 8.1 A person may make a complaint if they believe a broadcaster has not complied with this Code. Coimisiún na Meán advises complainants to make their complaint to the broadcaster in the first instance as this is the quickest way to have a complaint considered and responded to.
- 8.2 Information on the complaints handling process, including Coimisiún na Meán's process, is available on our website ([www.cnam.ie](http://www.cnam.ie)) or you can contact Coimisiún na Meán on + 353 1 963 7755 or at [usersupport@cnam.ie](mailto:usersupport@cnam.ie).

## 9. Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.
- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the section(s) of the Code, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view. The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding general guidance from the Commission.

## 10. General Definitions

Terms not defined below have the meanings given by the Act.

**“broadcaster”** means a provider of sound broadcasts or television broadcasts as defined in this Code.

**“broadcasting service”** means a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or near-simultaneous reception by the general public, whether that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or
- (b) any other services provided by way of the internet, if the service does not provide audiovisual programmes.

**“child”** or **“children”** means a person or persons under the age of 18 years.

**“programme”** means (a) a set of moving images with or without sound or (b) audio material, in each case constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama.

**“sound broadcasting service”** or **“sound broadcast”** means a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where—

- (a) the principal purpose of the service is devoted to providing sound programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, and
- (b) the service is provided for simultaneous or near-simultaneous listening to sound programmes on the basis of a programme schedule

**“television broadcasting” or “television broadcast”** (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule.

## 11. Objectives

11.1 The objectives of the Code are: -

- a) to promote the responsible provision of broadcasting services which enhance access to information, entertainment and education and a range of views, while avoiding undue offence and harm, and having due regard to the right to freedom of expression as referenced in Section 4.3 of this Code.
- b) 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.
- c) to advise viewers and listeners on the standards they can expect from broadcasting.
- d) to enable viewers and listeners to hold broadcasters to account in the event that they believe that a broadcaster has behaved irresponsibly.

## 12. Importance of Context

12.1 Broadcasters shall ensure that they schedule programme content appropriately taking into account, amongst other things: -

- a) the nature of the programme material.
- b) the genre of the programme material.
- c) the likely age range of the audience.
- d) the nature of the broadcast service.
- e) the particular programme and the time of day when children are likely to be watching or listening to programme material (including, in the case of radio, during school-run or holiday periods).

- f) on television services, the use of the watershed (which operates after 21.00), where appropriate.
- 12.2 Broadcasters shall ensure that they use prior warnings where it may be reasonably anticipated that programme material has the potential to offend or cause distress to audiences.
- 12.3 Broadcasters shall ensure that they have due regard to the established audience expectations of a broadcasting service and/or a programme and to the consequences of any intentional departure from the usual nature of the service or content of the programme.
- 12.4 Broadcasters shall ensure that in live programming they take timely corrective action where unplanned content is reasonably likely to have caused undue offence or harm. Such action may be to acknowledge, clarify and/or apologise for such content.
- 12.5 Broadcasters shall ensure that all audience information (such as prior content warnings and descriptive classification systems) and guidance mechanisms (such as help line or support service contact details) are provided in a manner which is clearly audible for radio audiences and clearly visible and audible for television audiences.
- 12.6 Broadcasters shall ensure that they promote on-air their audience information and guidance mechanisms.

## **13. Violence, Sexual Content and Offensive Language**

- 13.1 Broadcasters shall ensure that they have due regard to the appropriateness of and/or editorial justification for the inclusion in programme material of the following content:-
- i. violence.
  - ii. sexual content.
  - iii. offensive language.
- 13.2 Broadcasters shall be alert to, and guard against, the use of 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.

## **14. Protection from Harm**

- 14.1 Broadcasters shall ensure that they 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 behaviours, 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.
- 14.2 Broadcasters shall ensure that they provide appropriate helpline contact details for the viewer or listener, where relevant, including telephone numbers to facilitate immediate contact with a helpline or hotline.
- 14.3 Broadcasters shall ensure that programme material does 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.
- 14.4 Broadcasters shall ensure that they do not broadcast or make available material that encourages people to imitate acts which are damaging to their health and safety.
- 14.5 Broadcasters shall ensure that they 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.
- 14.6 Broadcasters shall ensure that they treat with due care 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. When such demonstrations are for entertainment purposes, this must be made clear to the audience.
- 14.7 Broadcasters shall ensure that demonstrations addressed by Section 14.6, whether purporting to be real or for entertainment purposes, shall 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.
- 14.8 Broadcasters shall ensure that they take due care with regard to the manner in which hypnosis is conducted during a programme.
- 14.9 Broadcasters shall ensure that they provide prior warnings, as appropriate, for viewers with photo sensitive epilepsy in a manner which is clearly audible and visible.

## 15. Protection of Children

- 15.1 Broadcasters shall ensure that they take particular care when broadcasting programme material around programmes that are likely to be watched or listened to by children, or at times when children will normally hear or see it. This will include programme material broadcast before the watershed (in respect of television), during school runs, and during school holidays.
- 15.2 Broadcasters shall ensure that trailers and promotions for programming not reasonably regarded as suitable for children shall not be broadcast immediately before, during or after children's programming or before the watershed around children's programming.

In the case of **television broadcasters** only: -

- 15.3 Broadcasters shall ensure that they provide sufficient information to audiences about content which may impair the physical, mental or moral development of children. Television broadcasters shall use a system describing the potentially harmful nature of the content on their service/s. Information provided to audiences should be displayed at the beginning of a programme and, if appropriate to do so, after a programme returns from a commercial break.
- 15.4 Broadcasters shall take appropriate measures to ensure that programmes containing content which may impair the physical, mental or moral development of children, including, but not limited to:
  - (a) content consisting of pornography,
  - (b) content consisting of gratuitous violence, are only made available in such a way  
  
as to ensure that children will not normally hear or see them.
- 15.5 Appropriate measures may entail the use of some or all of the following protection mechanisms: -
  - a) the use of prior content warnings.
  - b) scheduling, including the use of the watershed.
  - c) other measures that achieve an equivalent outcome of the foregoing.
- 15.6 Broadcasters shall ensure that the measures they take are proportionate to the potential for the programme to harm children. Factors to consider include: -
  - i. The likely degree of harm potentially caused by the programme content.

- ii. The likelihood of children accessing the content.
  - iii. The nature of the service and its likely audience.
- 15.7 Broadcasters shall ensure that the most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.

## **16. Respect for Persons and Groups in Society**

- 16.1 Broadcasters shall ensure that they do not broadcast any material which may reasonably be regarded as likely to incite to violence or hatred directed against a group of persons, or a member of a group, based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union,<sup>1</sup> namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. Nationality constitutes such a ground without prejudice to the special provisions of the Treaty establishing the European Community and of the Treaty on European Union.
- 16.2 Broadcasters shall ensure that programme material only emphasises sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation when such references are justified, having regard to the provisions of this Code, in particular, the importance of context.
- 16.3 Broadcasters shall ensure that the use of terms, references and images that could reasonably be considered offensive to persons and groups in society and associated colloquial terms of abuse aimed at any group are only included where there is editorial justification for their inclusion in programming.
- 16.4 Broadcasters shall ensure that they 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.

## **17. Protection of the Public Interest**

- 17.1 Broadcasters shall not broadcast material which may reasonably be regarded as likely to promote, or incite to, crime or tending to undermine the authority of the State.
- 17.2 Broadcasters shall not broadcast material which may reasonably be regarded as conduct falling within the concept of public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541.

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<sup>1</sup> This includes but is not limited to members of the Traveller Community and Roma Communities.

- 17.3 Broadcasters shall ensure that programme material does 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.
- 17.4 Broadcasters shall ensure that a broadcasting service that has, as one of its principal objectives, the promotion of the interests of any organisation, protects the interests of the audience. These services shall meet the requirements of the Code.

## **18. Respect for Privacy<sup>2</sup>**

- 18.1 Broadcasters shall ensure that any encroachment on the privacy of an individual in a programme or in the means employed to make a programme is not unwarranted, having regard to the provisions of this Code, in particular, the protection of the public interest. Any such encroachment must be reasonable, proportionate and limited to the degree that is required to inform the audience in the public interest.
- 18.2 Broadcasters shall have due regard to the concept of individual consent and ensure that participants in a programme material 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.
- 18.3 Broadcasters shall ensure that the personal data of children collected or otherwise generated by broadcasters is not processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.
- 18.4 Broadcasters shall 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.
- 18.5 Broadcasters shall ensure that they obtain consent where programme material, or the means employed to make 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 the primary care of a vulnerable person or a child. It will 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 provisions of this Code.

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<sup>2</sup> Section 18 (Respect for Privacy) applies to all programme materials. There are additional provisions with respect to news and current affairs content and these are set out in the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

- 18.6 Broadcasters shall give due consideration to indications of withdrawal of consent, having regard to the provisions of the Code, in particular, the protection of the public interest and other circumstances that may arise, such as contractual relationships.
- 18.7 Broadcasters shall 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.
- 18.8 Broadcasters shall have due regard to the impact that coverage and repeated coverage of death may have on the families and friends of the deceased.
- 18.9 Broadcasters shall have due regard to 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.
- 18.10 Broadcasters shall ensure that surreptitious filming or recording is only used where it is warranted.

# Appendix

## Guidance

### Undue Offence and Harm

The Act states that a broadcaster shall not broadcast anything which may reasonably be regarded as causing harm or undue offence. This document provides non-binding guidance to broadcasters on the application of these terms in the context of the requirements of the Code of Programme Standards

Matters which cause **offence** can, and frequently do, differ from person to person and are largely subjective in their nature. It is unavoidable that a programme service that captures the full richness of life and seeks to address the entire range of topics of concern to the audience may be a source of offence to some.

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.

However, while still subjective, **undue offence** can be considered to be programme material that, taking into account contextual factors such as editorial justification and the public interest, amongst others, could still be regarded as having crossed a line that has resulted in an individual or group of individuals being caused to suffer serious or widespread offence, beyond what can reasonably be justified.<sup>3</sup>

**Harm** is less subjective. Harmful material is material that may cause mental, psychological or physical harm. Individuals should not be harmed by programme material and the Code aims to prevent harm to viewers and listeners, in particular children. While parents and guardians have primary responsibility for content that children access on television and / or radio, broadcasters can, in order to prevent harm to children, support the parent / guardian relationship with their child / children by scheduling responsibly and through general compliance with this Code.

While acknowledging that harm and undue offence are two distinct concepts, content that has caused undue offence can become harmful in certain circumstances.

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<sup>3</sup> Matters that may cause serious or widespread offence are detailed below.

In assessing whether programme material may reasonably be regarded as causing harm and/or undue offence, broadcasters may have regard to the following non-exhaustive matters: -

### **Harm and Undue Offence**

In the case of both **harm** and **undue offence**: -

the content of the programme material broadcast.

- the relevant contextual factors relating to the broadcast of the programme material.
- the extent to which the programme material does not comply or adhere to the obligations of this Code.

### **Harm**

In the case of **harm**: -

- the likelihood that the programme material may reasonably be regarded as causing harm to any individual or group of individuals, including: -
  - the extent to which the programme material or similar material has previously caused mental, moral or physical harm to an individual or group of individuals.
  - the extent to which the programme material has unreasonably encroached upon the privacy of an individual/s.
  - the extent to which strong language, violence (including gratuitous violence) and sexual behaviour (or other content that might impair the mental, moral or physical development of children) included in programme material has been inappropriately scheduled such that children are likely to see or hear it.
  - the extent to which the programme material would reasonably be expected to impact negatively on an individual/s, because of their prior experiences, and that is shown without prior warnings, such as programme material featuring suicide, self-harm and sexual violence.
  - the extent to which the programme material would reasonably be considered to support or condone discrimination contrary to the Equal Status Act 2000 and/or the Charter of Fundamental Rights of the European Union.
  - the extent to which the programme material would reasonably be considered to incite to violence or hatred directed against a group of persons, or a member of a group, based on

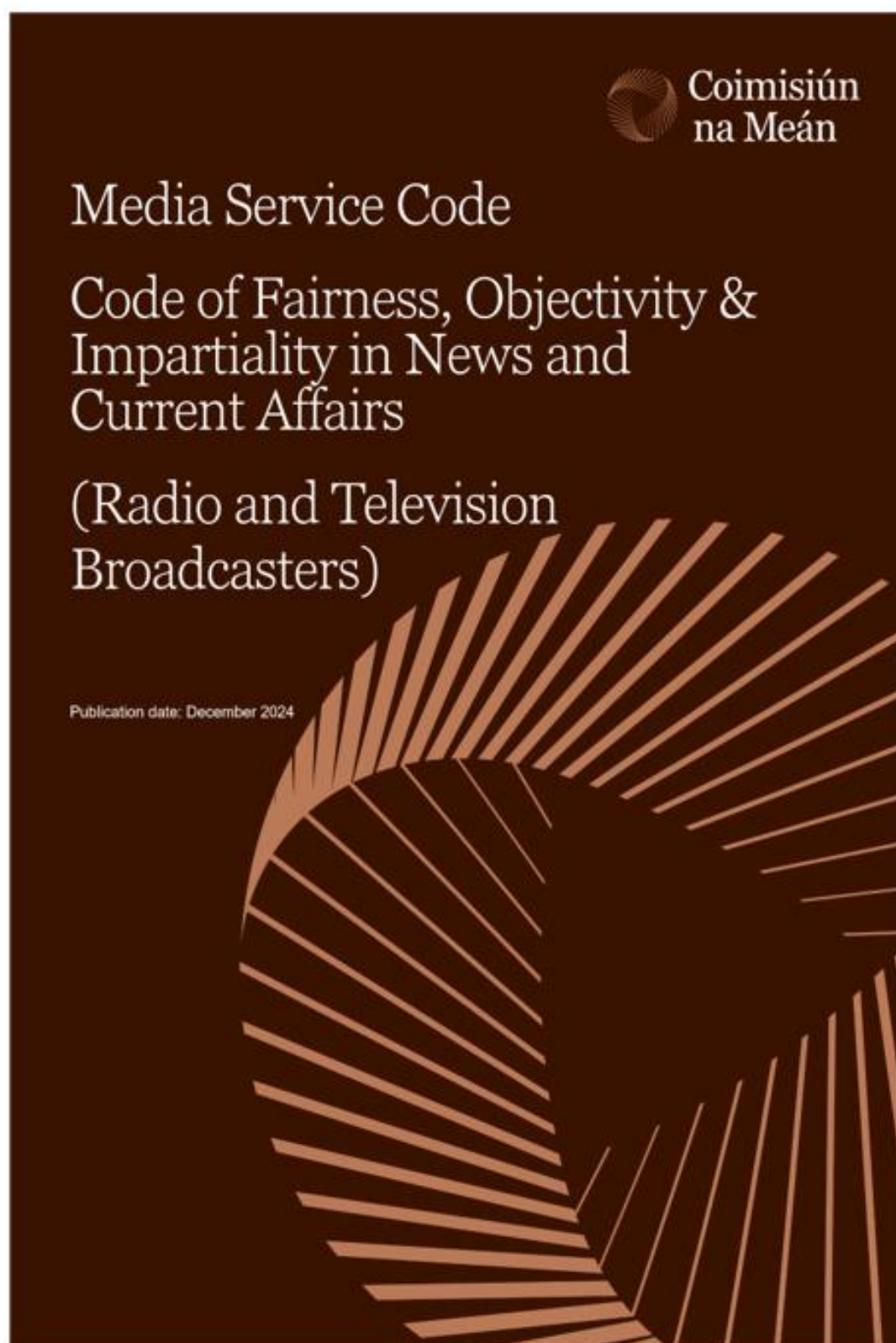
any of the grounds referred to in Article 21 of the European Charter of Fundamental Rights. Namely, on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

- the extent to which the programme material would reasonably be considered to support or condone crime including violent, dangerous or seriously antisocial behaviour or undermine the authority of the State.

In the case of **undue offence**, the likelihood that the programme material may reasonably be regarded as causing undue offence to any individual or group of individuals, including: -

- the extent to which the programme material or similar material has previously caused **serious offence** to any individual or to an individual or group of individuals because of: -
  - the inclusion in programme material of demeaning, hostile, abusive, derogatory or discriminatory language and/or representations about an individual or group of individuals without there being a strong editorial justification for this programme material. Particular care is required with respect to language and representations of individuals or groups of individuals, based on the grounds referenced in Article 21 of the Charter of Fundamental Rights of the European Union or the Equal Status Act 2000.
- the extent to which the programme material or similar material has previously caused **widespread offence** because, for example, it has offended the prevailing values in Irish society around content that might cause particular harm or offence, including violent or sexual content or content containing offensive language. While the volume of complaints made about programme material may be a relevant factor when considering whether it has caused widespread offence, this is not likely to be a determinant factor.
- the extent to which the broadcast of the programme material is in the public interest.

**FOURTH SCHEDULE CODE OF FAIRNESS, OBJECTIVITY  
AND IMPARTIALITY IN NEWS AND CURRENT AFFAIRS**



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# 1. Introduction

- 1.1 Pursuant to Section 46N(1) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, (the “**Act**”) Coimisiún na Meán (the “**Commission**”) may make codes (“**media service codes**”) governing the standards and practices of broadcasters and providers of audiovisual on-demand services.
- 1.2 Pursuant to Sections 46N(2)(a) and (b) of the Act, the Commission may make media service codes providing for standards and practices to ensure that broadcasters comply with Sections 46K and 46L(1) to (3) of the Act.
- 1.3 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the “**Code**”).
- 1.4 Pursuant to Section 46N(11)(b) of the Act, the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs dated 1 July 2013 was continued in force with the establishment of the Commission.
- 1.5 The Code replaces the 2013 BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs, which will be revoked as of 6 December 2024, being the date this Code takes effect.

# 2. Scope and Jurisdiction

- 2.1 The Code applies only to broadcasters (as defined in this Code) that are under the jurisdiction of the State within the meaning of Section 2A of the Act.

# 3. Purpose and Preparation of the Code

## Purpose

- 3.1 The purpose of the Code is to ensure that broadcasters that are under the jurisdiction of the State comply with the duties set out under Sections 46K and 46L(1) to (3) of the Act.

## Preparation of the Code

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -
  - the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
  - the likely size and composition of the potential audience for programme material.

- the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
- the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
- the desirability of securing that the provider of a broadcasting service informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
- the desirability of maintaining the independence of editorial control over programmes.

3.3 The Code has been prepared in accordance with the procedures provided for by Section 46Q of the Act.

## **4. Regulatory Principles Relevant to the Code**

4.1 In its interpretation, application and enforcement of the Code, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.

4.2 More particularly, the Commission must act in accordance with:

- its general statutory objectives and functions under the Act.
- the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.

4.3 In its interpretation of the Code, the Commission will have due regard to the freedom of expression conferred under Article 40.6.1 of the Constitution, Article 11 of the Charter of Fundamental Rights of the European Union, and Article 10 of the European Convention on Human Rights.

4.4 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to broadcasting services best serve the needs of the people of the island of Ireland.

- 4.5 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.
- 4.6 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:
- stimulate the provision of high quality, diverse, and innovative programmes by providers of broadcasting services.
  - provide a regulatory environment that will sustain independent and impartial journalism.
  - promote and encourage environmental sustainability in the policies and practices of broadcasting services.
  - engage in evidence-based decision-making in the exercise of its functions, and promote evidence-based decision-making by those with which it consults.
  - encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as to how those provisions may be complied with.
- 4.7 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to:  
the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

## **5. Severability**

- 5.1 If any provision of the Code is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular broadcaster) in any respect, on the basis of any law (including the Constitution and European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.

- 5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code shall remain fully effective, applicable and enforceable. To the extent necessary, any provision or part of the Code, found to be unlawful, invalid, prohibited, unenforceable or inapplicable, shall be severed from the Code.

## **6. Waiver**

- 6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by a broadcaster shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the broadcaster has complied with its obligations under the Act and/or the Code.
- 6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code.

## **7. Compliance and Enforcement**

- 7.1 Pursuant to Section 46N(10) of the Act, a failure by a broadcaster to comply with the Code shall be a contravention for the purposes of Part 8B of the Act.
- 7.2 A broadcaster shall ensure that it has systems and controls in place to demonstrate compliance with the obligations contained in this Code.
- 7.3 Pursuant to Section 47(3) of the Act, a broadcaster is required to prepare and implement a code of practice for the handling of complaints relating to, among other obligations, the failure of the broadcaster to comply with a media service code.

## **8. Complaints**

- 8.1 A person may make a complaint if they believe a broadcaster has not complied with this Code. Coimisiún na Meán advises complainants to make their complaint to the broadcaster in the first instance as this is the quickest way to have a complaint considered and responded to.
- 8.2 Information on the complaints handling process, including Coimisiún na Meán's process, is available on our website ([www.cnam.ie](http://www.cnam.ie)) or you can contact Coimisiún na Meán on +353 1 963 7755 or at [usersupport@cnam.ie](mailto:usersupport@cnam.ie).

## 9. Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.
- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the section(s) of the Code, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view. The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding general guidance from the Commission.

## 10. Definitions

Terms not defined below have the meanings given by the Act.

**“broadcast”** means the transmission, relaying or distribution by electronic communications network of communications, sounds, signs, visual images or signals, intended for direct reception by the general public whether such communications, sounds, signs, visual images or signals are actually received or not.

**“broadcaster”** means a provider of sound broadcasts or television broadcasts as defined in this Code.

**“broadcasting service”** means a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or nearsimultaneous reception by the general public, whether that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or
- (b) any other service which is provided by way of the internet, if the service does not provide audiovisual programmes.

**“child” or “children”** means person or persons under the age of 18 years.

**“programme”** means (a) a set of moving images with or without sound or (b) audio material, in each case constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children’s programmes and original drama.

**“sound broadcasting service” or “sound broadcast”** means a service, within the meaning of Articles 56 and 57 of the Treaty on the functioning of the European Union, where-

- (a) the principal purpose of the service is devoted to providing sound programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, and
- (b) the service is provided for simultaneous or near-simultaneous listening to sound programmes on the basis of a programme schedule.

**“television broadcasting” or “television broadcast”** (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule.

## 11. Objectives

11.1 The objectives of the Code are: -

- a) To set out clearly the minimum standards and practices that are expected of broadcasters in their treatment and broadcast or availability of news and current affairs content.
- b) To promote independent and impartial journalism in the provision of news and current affairs content.
- c) To inform and generate awareness among the public with regard to standards they may expect in relation to news and current affairs content.
- d) To protect the interests of the public, in their right to access fair, objective and impartial, news and current affairs content.
- e) To ensure news and current affairs content complies with applicable Irish and European legislation and has regard to international conventions.

## 12. General Obligations

12.1 In their treatment of news and current affairs content, including matters which are either of public controversy or the subject of current public debate, broadcasters shall comply with Section 46L of the Act.

- 12.2 In their treatment of news and current affairs content, including matters which are either of public controversy or the subject of current public debate, broadcasters shall comply with the following general obligations.

### ***Fairness***

- 12.2.1 Broadcasters shall ensure that individuals and organisations that are the subject of news and current affairs content, or persons who contribute to news and current affairs programmes or items, are treated fairly and honestly.

### ***Objectivity & Impartiality***

- 12.2.2 Broadcasters shall ensure that news and current affairs content is compiled, produced and presented in a manner which is and can be seen as independent, unbiased, and without prejudgement.

### ***Accuracy & Responsiveness***

- 12.2.3 Broadcasters shall ensure that coverage of news and current affairs is accurate. Accuracy shall always take priority over the speed with which content can be delivered.
- 12.2.4 Where, despite best efforts, inaccurate information is conveyed, providers of broadcasts shall ensure that fair, timely and appropriate remedies are adopted in respect of the broadcast or availability of inaccurate information.

### ***Transparency & Accountability***

- 12.2.5 Broadcasters shall ensure that practices and procedures adopted in the sourcing, compilation, production and presentation of news and current affairs are visible, open to scrutiny, robust and accessible. This is particularly the case where a decision to broadcast or make available certain content may impact on an individual's privacy.
- 12.2.6 Section 12.2.5 shall not place an obligation on broadcasters or their editorial staff to disclose information related to or capable of identifying journalistic sources or confidential communications or oblige any persons who, because of their regular or professional relationship with a broadcaster or its editorial staff, might have such information to disclose it.

## **13. Fairness**

- 13.1 In the normal course of events, broadcasters shall ensure that interviewees for news and current affairs content are made aware of the subject matter and the nature

and format of their contribution, so that their agreement to participate constitutes informed consent.

- 13.2 A broadcaster shall not generally broadcast or make available any news or current affairs interview with any person without the consent of that person. The broadcast or provision of any news or current affairs content in the absence of consent must be editorially justified. Requests for withdrawal of consent shall be given due consideration by the broadcaster having regard to the public interest, natural justice and the principles of fairness, objectivity and impartiality.
- 13.3 Care shall always be taken with the inclusion of interviews with children or vulnerable people in news or current affairs content. In all cases, the over-riding principle must be to avoid the broadcast or availability of material that may be unfair or detrimental to their best interests.
- 13.4 The consent of a parent, guardian or legal representative shall generally be obtained prior to the broadcast or availability of any interview with a child less than 16 years of age or a vulnerable person, where the subject matter is of a sensitive or serious matter or where not to do so could be deemed unfair. A decision to broadcast or make available an interview in the absence of such consent must be justified in the public interest.
- 13.5 Where a person or organisation refuses to contribute to news or current affairs content or chooses to make no comment, the content shall make this fact clear and shall report in a reasonable manner the person/organisation's explanation for declining to participate, where not to do so could be deemed unfair.
- 13.6 The refusal of a person or organisation to participate in a programme will not preclude the broadcast or availability of news or current affairs content. However, the broadcaster has a responsibility to reflect, as far as practicable, the views of the absent party and to do so fairly.
- 13.7 The editing process shall not distort the context or meaning of the original interview.
- 13.8 A broadcaster shall ensure that the re-use of any material in a news or current affairs context, including the use of archive material, does not create unfairness or result in inaccuracies.
- 13.9 The re-construction or re-enactment of an event in news or current affairs content shall be clearly identified as such and should be authentic in its depiction of the event(s) in question.
- 13.10 The use of secret or undisclosed recording or filming in current affairs content shall only be used in exceptional circumstances. It must be warranted, and a broadcaster shall have appropriate procedures in place for the authorisation of such recordings at the most senior editorial level. Such authorisation shall be in writing.

The following considerations are essential elements in determining if secret or undisclosed recording or filming is warranted:

- the item being covered is demonstrably in the public interest and the provider of the broadcasting service has evidence of matter that merits coverage;
- the co-operation of the subject is unlikely to be forthcoming; and
- there is reason to believe that coverage of the subject matter will be frustrated as the content cannot reasonably be obtained by other means.

13.11 Any person secretly filmed or recorded shall be afforded the opportunity to participate in the news or current affairs content that will include the recording if, in the opinion of the provider of the broadcasting service, not affording the opportunity to participate would be unfair to that person.

13.12 By its nature, a direct unarranged approach (“door-stepping”) to an interviewee may contravene fairness. However, in appropriate circumstances it may be justifiable to dispense with the normal practice of making arrangements for an interview directly with an interviewee, or with a representative, and with suitable notice.

“Door-stepping” may be appropriate in circumstances where:

- the item being covered is demonstrably in the public interest;
- the interviewee is unlikely to co-operate if approached in the normal way; and
- the approach to the individual(s) is necessary to the authenticity and credibility of the content in question.

13.13 A broadcaster shall have in place appropriate policies and procedures for handling contributions via social media.

13.14 Any undertaking given to a contributor relating to confidentiality or anonymity shall be clear and be honoured. Any associated audio-visual techniques utilised in both filming and editing shall be carefully applied to ensure complete confidentiality is achieved and commitments given are fully honoured.

## **14. Objectivity & Impartiality**

- 14.1 News and current affairs content shall be presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting or making available the content.
- 14.2 Two, or more, related programmes may be considered as a whole if the programmes are transmitted or made available within a reasonable time period and reasonable efforts are made to inform audiences of the related programme.
- 14.3 Views and facts shall not be misrepresented or presented in such a way as to render them misleading. Presenters should be sensitive to the impact of their language and tone in reporting news and current affairs so as to avoid misunderstanding of the matters covered.
- 14.4 A significant mistake shall be acknowledged and rectified by a broadcaster as speedily as possible, in an appropriate and proportionate manner. A correction or clarification shall have regard to the time and circumstances of the original broadcast. In the case of a correction or clarification the broadcaster shall have regard to the prominence and level of original mistake.
- 14.5 A news presenter and/or a reporter in a news programme may not express his or her own view on matters that are either of public controversy or the subject of current public debate. However, a broadcaster may express its view on a proposal concerning a policy with regard to broadcasting which is of public controversy or the subject of current public debate and is being considered by the Government or the Minister.
- 14.6 It is an important part of the role of a presenter of a current affairs programme to ensure that the audience has access to a wide variety of views on the subject of the programme or item; to facilitate the expression of contributors' opinions – sometimes by forceful questioning; and to reflect the views of those who cannot, or choose not to, participate in content. This being so, a presenter and/or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated.
- 14.7 'Personal view' or 'authored' current affairs segments or programmes can be appropriate, subject to normal editorial controls. This does not exempt the segment or programme – or a series of related segments/programmes – from the broadcaster's statutory obligations to be impartial, objective and fair to all interests concerned. Similarly, an 'authored' item or programme may be permitted if part of a series of related segments/programmes which, taken together, will discharge the statutory obligations.

- 14.8 A 'personal view' or 'authored' programme or segment shall be clearly signalled to the audience at the outset, or, in the case of a series of segments or programmes, at the start of each one.
- 14.9 A broadcaster shall have and implement appropriate policies and procedures to address any conflicts of interests that may exist or arise in respect of anyone with an editorial involvement in any news or current affairs content, whether such person appears in the content or part of its production.
- 14.10 Any personal, professional, business or financial interest of anyone with an editorial involvement in news or current affairs content that calls into question (or that might reasonably be perceived as calling into question) the fairness, objectivity or impartiality of a programme or item, shall be brought to the attention of the audience. To this end, a broadcaster shall satisfy itself that it is in a position to be aware of the relevant interests of the personnel concerned, and to determine whether the interest concerned is of such extent as would warrant the withdrawal of any person from further involvement in the item or programme.

## **15. Election & Referendum Coverage**

- 15.1 Coverage of any elections or referendums held within the State shall comply with guidelines or codes of practice issued from time to time by the Commission.

## **16. General**

- 16.1 A broadcaster shall take appropriate measures to ensure they adhere to all legislative requirements when sourcing, compiling, producing and presenting news and current affairs content.

**Fifth Schedule Media Service Code and Rules  
(Audiovisual On-Demand Media Service Providers)**



Coimisiún  
na Meán

# Media Service Code and Media Service Rules

## Audiovisual On-demand Media Service Providers

Publication date: November 2024



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## 1. Introduction

- 1.1 Pursuant to Section 46N(1) and Section 46O(1) and (5) of the Broadcasting Act 2009, as amended by the Online Safety and Media Regulation Act 2022, **(the “Act”)** Coimisiún na Meán (the **“Commission”**) may make codes and rules (**“media service codes” and “media service rules”**) governing the standards and practices of broadcasters and providers of audiovisual on-demand media services.
- 1.2 Pursuant to Section 46N(5) of the Act, the Commission shall make media service codes providing for the matters required to be provided for by Articles 5, 6(1), 6a(1) to (3), 7b, 8, 9, 10 and 11 of Directive (EU) 2010/13 (as amended by Directive (EU) 2018/1808) (the **“Audiovisual Media Services Directive”**) (except in so far as provision is made by media service rules).
- 1.3 Pursuant to Section 46O(9) of the Act, media service rules shall provide for the matters required to be provided for by Articles 6(1), 6a(1), 7, 7b, 8, 9, 10, 11, Chapter VI and Articles 23(2), 24 and 25 of the Audiovisual Media Services Directive (except in so far as provision is made by media service codes).
- 1.4 In accordance with its statutory duties and obligations set out above, the Commission has prepared this media service code (the **“Code”**) and these media service rules (the **“Rules”**).<sup>1</sup> The Code and Rules shall take effect on the 5 November 2024.

## 2. Scope and Jurisdiction

- 2.1 The Code and Rules gives effect to Articles 5, 6(1), 6a(1) to (3), 7, 8, 9, 10, and 11 of the Audiovisual Media Services Directive in Ireland, in so far as they relate to audiovisual on-demand media services.
- 2.2 The Code and Rules apply, accordingly, to media service providers providing audiovisual on-demand media services.

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<sup>1</sup> Coimisiún na Meán recognises the role of the On-Demand Audiovisual Services Group (“ODAS”) and their Code of Conduct in providing a regulatory framework for media service providers of on-demand services prior to the introduction of the Code and Rules. Following publication of the Code and Rules, the statutory basis for the ODAS Code of Conduct will be revoked via a Statutory Instrument. Coimisiún na Meán will continue its ongoing engagement with members of the ODAS group as part of its regulatory engagement with the wider on-demand sector.

- 2.3 The Code and Rules apply only to media service providers providing audiovisual ondemand media services that are under the jurisdiction of the State within the meaning of Section 2A of the Act.

### **3. Purpose, Preparation, and Application of the Code and Rules**

#### ***Purpose***

- 3.1 The purpose of the Code and Rules is to ensure that media service providers providing audiovisual on-demand media services that are under the jurisdiction of the State comply with the requirements of Articles 5, 6(1), 6a(1) to (3), 7,8, 9, 10, and 11 of the Audiovisual Media Services Directive.

#### ***Preparation of the Code and Rules***

- 3.2 Pursuant to Section 46N(6) of the Act, the Commission has had regard to the following matters when preparing the Code: -
- the degree of harm or offence likely to be caused by the inclusion of a particular matter in programme material.
  - the likely size and composition of the potential audience for programme material.
  - the likely expectation of the audience as to the nature of programme material, and the extent to which the nature of the programme material can be brought to the attention of potential members of the audience.
  - the likelihood of persons who are unaware of the nature of programme material being unintentionally exposed to it by their own actions.
  - the desirability of securing that the provider of a broadcasting service or an audiovisual on-demand media service informs the Commission of any change affecting the nature of the service and, in particular, of any change relevant to the application of media service codes.
  - the desirability of maintaining the independence of editorial control over programmes.

- 3.3 The Code and Rules have been prepared in accordance with the procedures provided for by Section 46Q of the Act.

## 4. Regulatory Principles Relevant to the Code and Rules

- 4.1 In its interpretation, application and enforcement of the Code and Rules, the Commission must, in accordance with its public law duties, act lawfully, rationally and fairly.
- 4.2 More particularly, the Commission must act in accordance with:
- its general statutory objectives and functions under the Act.
  - the specific statutory objectives underpinning the Code and Rules.
  - the rights conferred by the Constitution, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights insofar as applicable under the European Convention on Human Rights Act 2003 and the EU Treaties.
- 4.3 In its interpretation and application of the Code and Rules, the Commission will have due regard to:
- the State's ratification of the United Nations Convention on the Rights of Persons with Disabilities, in particular Articles 9 (Accessibility), Article 21 (Freedom of expression), and Article 30 (Participation in cultural life, recreation, leisure, and sport).
  - the provisions of the European Accessibility Act and S.I. No. 636/2023 – European Union (Accessibility Requirements of Products and Services) Regulations 2023 (scheduled to come into operation on 28 June 2025).

### ***General Statutory Objectives and Functions***

- 4.4 Section 7(2) of the Act provides that, in performing its functions, the Commission shall endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld, and that the interests of the public, including the interests of children, are protected, with particular commitment to the safety of children. The Commission shall also endeavour to ensure the Commission's policies in relation to audiovisual on-demand

media services best serve the needs of the people of the island of Ireland as regards people with disabilities, and their requirements for accessibility to those services.

4.5 In addition, the Commission must endeavour to ensure that its regulatory arrangements (i) address programme material and other content which are harmful or illegal; (ii) take account of technological and societal change; and (iii) operate proportionately, consistently and fairly.

4.6 Section 7(3) of the Act provides that, in addition, the Commission shall, inter alia:

- stimulate the provision of high quality, diverse, and innovative programmes by providers of audiovisual on-demand media services.
- promote and encourage environmental sustainability in the policies and practices of providers of audiovisual on-demand media services.
- engage in evidence-based decision-making in the exercise of its functions, and promote evidence-based decision-making by those with which it consults.
- encourage compliance with the provisions of the Act, and the provisions of any code, rule or other statutory instrument made under it, in any manner the Commission considers appropriate, including by the publication of guidance as to how those provisions may be complied with.

4.7 Pursuant to Section 7(4) of the Act, in performing its functions, the Commission shall have regard to: the safety of children, and published policies of the Minister for Children, Equality, Disability, Integration and Youth in respect of that matter; the regulation of gambling, and published policies of the Minister for Justice in respect of that matter; climate change and environmental sustainability, and published policies of the Minister for the Environment, Climate and Communications in respect of that matter; and published policies of the Government in respect of any of those matters.

### ***Specific Statutory Objectives***

4.8 Pursuant to Section 46N(5) and Section 46O(9) of the Act it is the objective of the Code and the Rules to ensure that media service providers that provide audiovisual on-demand media services and are under the jurisdiction of the State comply with the requirements of Articles 5, 6(1), 6a(1) to (3), 7, 8, 9, 10, and 11 of the Audiovisual Media Services Directive.

## **5. Severability**

- 5.1 If any provision of the Code and Rules is found to be unlawful, invalid, prohibited, unenforceable or inapplicable (either generally or with respect to a particular media service provider(s)) in any respect, on the basis of any law (including the Constitution and European law), such finding shall not affect the lawfulness, validity, enforceability or applicability of any other provision of the Code and Rules or part thereof, unless the finding is declared to be applicable to such other provision or part thereof, or the same is the subject of the relief granted by a court.
- 5.2 Without prejudice to the foregoing, all of the other provisions and/or parts of the Code and Rules shall remain fully effective, applicable and enforceable. To the extent necessary any provision or part of the Code and Rules, found to be unlawful, invalid, prohibited, unenforceable or inapplicable, shall be severed from the Code and Rules.

## **6. Waiver**

- 6.1 The fact that the Commission does not respond to or comment upon any submission, assessment, proposal, report, compatibility statement or any analogous document submitted to it by an on-demand audiovisual media service provider, included on the register of on-demand audiovisual media service providers created by the Commission in accordance with the Act, shall not be deemed to be an acceptance or approval of the contents of any part of the same and shall not imply that the media service provider has complied with its obligations under the Act and/or the Code and Rules.
- 6.2 Without prejudice to the foregoing, the fact that the Commission does not respond or comment on any such document shall not create an estoppel against, or constitute a waiver by, the Commission of any of its powers or rights pursuant to the Act and/or the Code and Rules.

## **7. Compliance and Enforcement**

- 7.1 Pursuant to Sections 46N(10) and 46O(11) of the Act, a failure by an audiovisual media service provider to comply with the Code or Rules shall be a contravention for the purposes of Part 8B of the Act.
- 7.2 An audiovisual media service provider shall ensure that they have systems and controls in place to demonstrate compliance with the obligations contained in the Code and Rules.
- 7.3 Pursuant to Section 47(3) of the Act, media service providers providing an audiovisual ondemand media service are required to prepare and implement a code of practice for the handling of complaints relating to the failure of the media service provider to comply with a media service code or media service rules.

## 8. Complaints and Information

- 8.1 A person may make a complaint if they believe that a media service provider of on-demand services has not complied with this Code and Rules.

In this respect and having regard to the obligation under Article 7 of the Audiovisual Media Services Directive for each Member of the European Union to designate a singly, easily accessible, including by persons with disabilities, and publicly available online point of contact for providing information and receiving complaints regarding any accessibility issues, the Commission has established a Contact Centre for handling queries, and receiving complaints regarding any accessibility issues.

Information on the complaints handling process is available on our website ([www.cnam.ie](http://www.cnam.ie)) or you can contact Coimisiún na Meán's Contact Centre on + 353 1 963 7755 or at [usersupport@cnam.ie](mailto:usersupport@cnam.ie).

- 8.2 The Commission advises complainants to make their complaint to the media service provider of on-demand services in the first instance as this is the quickest way to have a complaint considered and responded to.<sup>2</sup>

## 9. Guidance

- 9.1 The Commission may provide general non-binding guidance regarding the provisions of the Code and Rules on request or as and when it is deemed necessary. The Commission reserves the right to publish and amend guidance from time to time as it sees fit.
- 9.2 Requests for guidance must include the relevant material linked to the request for guidance. The request should clearly state the sections(s) of the Code and Rules, which the requestor believes are relevant, and set out the specific question about which the requestor would like a view.
- 9.3 The Commission accepts no liability for any decision (or consequences arising therefrom) made following receipt of non-binding guidance from the Commission.

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<sup>2</sup> In the case of commercial communications, a non-statutory complaints process is operated by the Advertising Standards Authority (ASA). The ASA assesses complaints against its Code of Standards for Advertising and Marketing Communications in Ireland – see <https://adstandards.ie> for more information. Similar complaint processes are operated in other European Member states by other members of the European Advertising Standards Alliance (see <https://www.easa-alliance.org/>).

## 10. Definitions – Media Service Code & Media Service Rules

**“access services”** means subtitling, captioning, sign language (including Irish Sign Language in the case of services targeting Irish audiences) and audio description as defined in this Code and Rules.

**“audio description”** means a commentary that gives audiences who are visionimpaired a verbal description of what is happening on the screen at any given moment. It is provided as an aid to the understanding and enjoyment of the programme. The technique uses a second sound track that gives a description of the programme content and the on-screen action.

**“audiovisual commercial communication”** means a commercial communication consisting of images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity; such images accompany, or are included in, a programme or usergenerated video in return for payment or for similar consideration or for selfpromotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement.

**“audiovisual media service”** means:

- (a) a service, within the meaning of Articles 56 and 57 of the Treaty on the Functioning of the European Union, where -
  - (i) the principal purpose of the service is devoted to, or
  - (ii) the principal purpose of a dissociable section of the service is devoted to, providing audiovisual programmes, by electronic communications networks, to the general public, under the editorial responsibility of the provider of the service, in order to inform, entertain or educate, or
- (b) an audiovisual commercial communication.

**“audiovisual on-demand media service (on-demand service)”** means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider.

**“captioning”** means on-screen text that represents what is being said on the screen. However, while similar to subtitling, it is not as sophisticated and entails a more basic representation of what is being said on screen, sometimes having only one colour, verbatim and can have the text only in upper case.

**“child or children”** means a person or persons under the age of 18 years.

**“editorial responsibility”** means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of ondemand audiovisual media services. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided.

**“electronic communications network”** means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

**“Irish Sign Language”** means the indigenous natural language of the Deaf community in Ireland. It is a visual, spatial language of the hands but also of the face and the body. Irish Sign Language has its own complex linguistic structures, rules and features.

**“media service provider”** means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organised.

**“product placement”** means any form of audiovisual commercial communication consisting of the inclusion of, or reference to, a product, a service or the trade mark thereof so that it is featured within a programme or a user-generated video in return for payment or for similar consideration.

**“programme”** means a set of moving images with or without sound constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama.

**“Sign Language”** is the indigenous natural language of a Deaf community. It is a visual, spatial language of the hands but also of the face and the body. Sign Language has its own complex linguistic structures, rules and features.

**“sponsorship”** means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trade mark, image, activities or products.

**“surreptitious audiovisual commercial communications”** means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is

intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration.

**“subliminal techniques”** means commercial communications that include any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware of what has been done.

**“subtitling”** means on-screen text that represents what is being said on the screen. Subtitling can be open or closed. Open subtitling is subtitling that remains on the screen at all times. Closed subtitling can be made visible or not visible as audiences wish, using, for example, a remote control. Subtitling is formatted so as to assist interpretation and understanding of the text and link it more accurately to the onscreen action.

## Media Service Code Provisions

The following provisions are made pursuant to Section 46N(1) and Section 46N(5) of the Act.

### 11. Harmful Content

11.1 Pursuant to Section 46J(1)(c) and (d) of the Act, media service providers of ondemand services shall not make available in a catalogue of the service:

- (a) anything which may reasonably be regarded as conduct falling within the concept of public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541;
- (b) anything which may reasonably be regarded as likely to incite to violence or hatred directed against a group of persons, or a member of a group, based on any of the grounds referred to in Article 21 of the Charter,<sup>3</sup> namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation. Nationality constitutes such a ground without prejudice to the special provisions of the Treaty establishing the European Community and of the Treaty on European Union.

11.2 Without prejudice to Section 11.1, media service providers of on-demand services shall provide sufficient information to audiences about content which may impair the physical, mental or moral development of children. The media service provider

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<sup>3</sup> This includes but is not limited to members of the Traveller Community and Roma Communities

shall use a system describing the potentially harmful nature of the content of its audiovisual on-demand media service.

11.3 Media service providers of on-demand services shall take appropriate measures to ensure that programmes containing content which may impair the physical, mental or moral development of children, including, but not limited to:

- (a) content consisting of pornography,
- (b) content consisting of gratuitous violence, are only made available in such a way as to ensure that children will not normally hear or see them.

11.4 Appropriate measures for the purpose of Section 11.3 may entail the use by audiovisual on-demand media service providers of some or all of the following protection mechanisms:

- the use of prior content warnings.
- the provision of parental controls, including restricted modes and PIN Access.
- age assurance tools.<sup>4</sup>
- account access systems e.g. where content is accessible only via credit card or other sign-up mechanisms.
- other technical measures that achieve an equivalent outcome of the foregoing.

11.5 Appropriate measures for the purpose of Section 11.3 shall be proportionate to the potential harm of the programme for children. In this respect, media service providers of on-demand services shall have regard to the potential of the material to harm children when determining the proportionate approach to be taken.

Factors to consider include: -

- i. The likely degree of harm potentially caused by the programme content.
- ii. The likelihood of children accessing the content.
- iii. The nature of the on-demand service and its likely audience.

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<sup>4</sup> An age assurance measure based solely on self-declaration of age by users of the service shall not be an effective form of age assurance for the purpose of this Code and Rules.

- 11.6 Without prejudice to the generality of Sections 11.3, 11.4 and 11.5, the most harmful content, namely gratuitous violence and pornography, shall be subject to the strictest measures.
- 11.7 Personal data of children collected or otherwise generated by media service providers pursuant to sections 11.3, 11.4 or 11.6 shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

## **12. Rights to Cinematographic Works**

- 12.1 Media service providers of on-demand services shall not transmit cinematographic works outside periods agreed with the rights holders.

## **13. Audiovisual Commercial Communications**

- 13.1 Media service providers of on-demand services shall ensure that audiovisual commercial communications they provide shall be readily recognisable as such.
- 13.2 Media service providers of on-demand services shall not include in or alongside programmes any surreptitious audiovisual commercial communications or audiovisual commercial communications that use subliminal techniques.
- 13.3 Media service providers of on-demand services shall not provide audiovisual commercial communications that are harmful to the general public, namely: -
- i. audiovisual commercial communications which prejudice respect for human dignity.
  - ii. audiovisual commercial communications which include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age, or sexual orientation.
  - iii. audiovisual commercial communications which encourage behaviour prejudicial to health or safety.
  - iv. audiovisual commercial communications which encourage behaviour grossly prejudicial to the protection of the environment.
  - v. audiovisual commercial communications for cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers.

- vi. audiovisual commercial communications which encourage immoderate consumption of alcoholic beverages.
- vii. audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the State.

13.4 Media service providers of on-demand services shall not provide audiovisual commercial communications harmful to children, namely:

- i. audiovisual commercial communications that directly exhort children to buy or hire a product or service by exploiting their inexperience or credulity.
- ii. audiovisual commercial communications that directly encourage children to persuade their parents or others to purchase the goods or services being advertised.
- iii. audiovisual commercial communications which exploit the special trust children place in parents, teachers or other persons.
- iv. audiovisual commercial communications which unreasonably show children in dangerous situations.
- v. audiovisual commercial communications for alcoholic beverages aimed specifically at children.

13.5 Media service providers of on-demand services shall ensure that audiovisual commercial communications for alcoholic beverages they provide, with the exception of sponsorship and product placement, comply with the following requirements:

- i. audiovisual commercial communications shall not be aimed specifically at minors or, in particular, depict minors consuming these beverages.
- ii. audiovisual commercial communications shall not link the consumption of alcohol to enhanced physical performance or to driving.
- iii. audiovisual commercial communications shall not create the impression that the consumption of alcohol contributes towards social or sexual success.
- iv. audiovisual commercial communications shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts.

- v. audiovisual commercial communications shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light.
- vi. audiovisual commercial communications shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

## 14. Sponsorship

14.1 Media service providers of on-demand services or programmes that are sponsored shall comply with the following requirements:

- i. the content of the on-demand services or programmes they provide shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider.
- ii. the on-demand services or programmes they provide shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.
- iii. audiences shall be clearly informed of the existence of a sponsorship agreement.
- iv. sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or at the end of the programmes.

14.2 Media service providers of on-demand services shall not permit on-demand services or programmes they provide to be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

14.3 Media service providers of on-demand services shall not permit on-demand services or programmes they provide to promote specific medicinal products or medical treatments available only on prescription in the State.

14.4 Without prejudice to Section 14.3, media service providers of on-demand services may permit on-demand services or programmes they provide to be promoted by the

name or image of undertakings whose activities include the manufacture or sale of medicinal products and medical treatment.

14.5 Media service providers of on-demand services shall not permit news and current affairs programmes they provide to be sponsored.

14.6 Media service providers of on-demand services shall not permit the showing of a sponsorship logo during documentaries or religious programmes they provide.

## 15. Product Placement

15.1 Media service providers of on-demand services shall permit product placement in on-demand services they provide, except on news and current affairs programmes, consumer affairs programmes, religious programmes and children's programmes.

15.2 Media service providers of on-demand services shall ensure that programmes containing product placement comply with the following requirements:

- i. the content and organisation of such programmes within a catalogue shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider.
- ii. they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.
- iii. they shall not give undue prominence to the product in question.
- iv. audiences shall be clearly informed of the existence of product placement by an appropriate identification at the start and at the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

Section 15.2. iv. above shall only apply to programmes that have been produced or commissioned by the media service provider of on-demand services or a company affiliated to them.

15.3 Without prejudice to Sections 15.1 and 15.2, programmes shall not contain product placement of: -

- i. cigarettes and other tobacco products, as well as electronic cigarettes and refill containers, or product placement from undertakings whose principal activity is the manufacture or sale of those products.

- ii. specific medicinal products or medical treatments available only on prescription in the State.

15.4 Sections 15.1, 15.2, and 15.3 shall apply only to programmes produced after 19 December 2009.

## **Media Service Rules Provisions**

The following provisions are made pursuant to Section 46O(1)(5)(6)(7) and (9) of the Act.

## **16. Accessibility of audiovisual on-demand services**

16.1 Media service providers of on-demand services shall take proportionate measures to ensure that programmes made available on their on-demand services are made continuously and progressively more accessible to persons with disabilities through the provision of access services as defined in this Code and Rules.

### **Accessibility Action Plan**

16.2 Media service providers of on-demand services shall develop an accessibility action plan, to be agreed with the Commission, in respect of the obligation set out under Section 16.1.

16.3 Media service providers of on-demand services shall make available to the Commission their first accessibility action plan within six months from the date of publication of this Code and Rules and annually thereafter.

16.4 Media service providers of on-demand services shall, in developing their first and subsequent accessibility action plan demonstrate that they have had due regard to the influencing factors set out under Section 16.6.

16.5 The accessibility action plan to be developed and agreed with the Commission in respect of the obligation set out under Section 16.1 shall address the following: -

- i. The proportion of access services that the media service provider of on-demand services proposes to make available each year on the on-demand service(s) that it provides.
- ii. The measures to be taken to adhere to the quality standards developed by the Commission further to Section 16.7.

- iii. Proposals with respect to the provision of emergency information further to Section 16.8.
- iv. The manner in which the media service provider of on-demand services will promote access services made available on the ondemand service(s) that it provides.
- v. Proposals to consult with users of access services, including Disabled Persons Representative Organisations, on the provision by the media services provide of access services on the on-demand media service(s) that it provides.
- vi. Proposals with respect to ensuring that there is an accessible mechanism for dealing with complaints and queries from audiences with respect to the provision of access services.
- vii. Proposals by the media service provider of on-demand services to improve the quality of their access services and monitor their service to ensure quality standards are consistently met.

Media service providers of on-demand services shall provide the Commission with their annual accessibility action plan in an accessible format and suitable for publication on the Commission's website.

## **Influencing Factors**

16.6 In determining the proportionate measures to be taken further to Section 16.1 and specified in their annual accessibility action plan, media service providers of ondemand services shall demonstrate that due regard was had to the following influencing factors,<sup>5</sup> namely: -

- i. The nature of the audiovisual on-demand media service provider and the services provided.
- ii. The stage of development of the audiovisual on-demand media service provider and its capacity to provide accessible programmes.
- iii. The level of current provision of access services made available by the media service provider on the on-demand services that it provided.

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<sup>5</sup> Non-binding guidance with respect to these influencing factors has been developed by the Commission and may be accessed at <https://cnam.ie>

- iv. The type of programmes provided in the catalogue of the on-demand services provided by the media service provider.
- v. The technical and human resource cost for the media services provider of providing access services.
- vi. The technical capacity of the media services provider to provide access services on the on-demand services it provides.

## **Quality Standards**

- 16.7 Media service providers of on-demand services shall adhere to quality standards, insofar as it is practicable to do so, for the provision of access services applied by the Commission and developed following consultation with the public and media service providers of on-demand services.

## **Emergency Information**

- 16.8 Where an on-demand service transmits emergency information, including public communications and announcements in natural disaster situations, the provider of that service shall ensure that this information is provided in a manner which is accessible to persons with disabilities.

## **Reporting**

- 16.9 Pursuant to enabling the Commission to meet its reporting obligation set out under Article 7(2) of the Audiovisual Media Services Directive, media service providers of on-demand services shall provide a report to the Commission, in a manner to be further specified, on the implementation of the first and subsequent annual accessibility action plans agreed with the Commission.

## **Guidance Influencing Factors**

Section 16 of Coimisiún na Meán's 'Media Service Code and Media Service Rules - Audiovisual On-demand Media Service Providers' states that in determining the proportionate measures to be taken to ensure that programmes made available on their on-demand services are made continuously and progressively more accessible to persons with disabilities, media service providers of on-demand service shall in the development of their first and subsequent accessibility action plan demonstrate that they had due regard to the influencing factors set out under Section 16.6 of the Rules. This document provides further guidance in this respect.

**i. The nature of the audiovisual on-demand media service provider and the services provided.**

**Guidance:** Does the service(s) have a public or private service character? Is the service in receipt of public monies and as a result may have greater public service duties? Does the service have specific aims, cultural, social or linguistic, which might impact on its ability to provide accessible services?

**ii. The stage of development of the audiovisual on-demand media service provider and its capacity to provide accessible programmes.**

**Guidance:** How long has the service(s) been in operation? How much experience does the media service provider have of providing access services? Is there already a level of expertise within or available to the media service provider in the provision of access services? What is their share of the market?

**iii. The level of current provision of access services.**

**Guidance:** What is their starting point? How much subtitling, captioning, sign language or audio description is current available on the on-demand services(s) that they provide?

**iv. The type of programmes provided in the catalogue of the audiovisual on-demand media service(s).**

**Guidance:** Does the service(s) acquire a lot of content from third parties? How much homeproduced programming does the service provide? Is programming independently produced? These questions are relevant, as the type of programming in the catalogue has an influence on the cost, technical facilities, personnel and ability to provide access services.

**v. The technical and human resource cost for the audiovisual on demand media service provider of access services.**

**Guidance:** What is the financial capacity of the media service provider and the likely financial impacts of providing access services?

**vi. The technical capacity of the audiovisual on-demand media service provider.**

**Guidance:** What facilities and expertise currently exist within the service to provide access services? Does the service have the technical capacity to provide access services? What level and type of technical facilities and expertise would be required?