

APPENDIX 1

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**THE SOUTH AFRICAN  
PRESS CODE**





## Preamble

The press exists to serve society. Its freedom provides for independent scrutiny of the forces that shape society, and is essential to realising the promise of democracy. It enables citizens to make informed judgments on the issues of the day, a role whose centrality is recognised in the South African Constitution.

Section 16 of the Bill of Rights sets out that:

1. “Everyone has the right to freedom of expression, which includes:
  - a) Freedom of the press and other media;
  - b) Freedom to receive and impart information or ideas;
  - c) Freedom of artistic creativity; and
  - d) Academic freedom and freedom of scientific research.
2. “The right in subsection (1) does not extend to
  - a) Propaganda for war;
  - b) Incitement of imminent violence; or
  - c) Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.”

The press strives to hold these rights in trust for the country’s citizens; and it is subject to the same rights and duties as the individual. Everyone has the duty to defend and further these rights, in recognition of the struggles that created them: the media, the public and government, who all make up the democratic state.

Our work is guided at all times by the public interest, understood to describe information of legitimate interest or importance to citizens.

As journalists, we commit ourselves to the highest standards of excellence, to maintain credibility and keep the trust of our readers. This means always striving for truth, avoiding unnecessary harm, reflecting a multiplicity of voices in our coverage of events, showing a special concern for children and other vulnerable groups, and acting independently.


We adopt the following Press Code:

### 1. Gathering of news

- 1.1. News should be obtained legally, honestly and fairly, unless public interest dictates otherwise.
- 1.2. Press representatives shall identify themselves as such, unless public interest or their safety dictates otherwise.

### 2. Reporting of News

- 2.1. The press shall take care to report news truthfully, accurately and fairly.
- 2.2. News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.
- 2.3. Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.

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- 2.4. Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be stated in such report.
- 2.5. A publication shall seek the views of the subject of critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. Reasonable time should be afforded the subject for a response. If the publication is unable to obtain such comment, this shall be stated in the report.
- 2.6. A publication shall make amends for publishing information or comment that is found to be inaccurate by printing, promptly and with appropriate prominence, a retraction, correction or explanation.
- 2.7. Reports, photographs or sketches relating to indecency or obscenity shall be presented with due sensitivity to the prevailing moral climate. A visual presentation of explicit sex shall not be published, unless public interest dictates otherwise.
- 2.8. Journalists shall not plagiarise.
- 3. Independence and conflicts of interest**
- 3.1 The press shall not allow commercial, political, personal or other non- professional considerations to influence or slant reporting. Conflicts of interest must be avoided, as well as arrangements or practices that could lead audiences to doubt the press's independence and professionalism.
- 3.2 Journalists shall not accept a bribe, gift or any other benefit where this is intended or likely to influence coverage.
- 3.3 The press shall indicate clearly when an outside organisation has contributed to the cost of newsgathering.
- 3.4 Editorial material shall be kept clearly distinct from advertising.
- 4. Dignity, Reputation and Privacy**
- 4.1. The press shall exercise care and consideration in matters involving the private lives and concerns of individuals. The right to privacy may be overridden by a legitimate public interest.
- 4.2. The press shall exercise care and consideration in matters involving dignity and reputation. The dignity or reputation of an individual should only be overridden in the following circumstances:
- 4.2.1. The facts reported are true or substantially true;
- 4.2.2. The article amounts to fair comment based on facts that are adequately referred to and that are true or substantially true;
- 4.2.3. The report amounts to a fair and accurate report of court proceedings, Parliamentary proceedings or the proceedings of any quasi-judicial tribunal or forum; or
- 4.2.4. It was reasonable for the article to be published because it was prepared in accordance with acceptable principles of journalistic conduct and in the public interest.
- 4.3. The identity of rape victims and victims of sexual violence shall not be published without the consent of the victim or in the case of children, without the consent of their legal guardians and it is in the best interest of the child.

4.4. The HIV/AIDS status of people should not be disclosed without their consent, or in the case of children, without the consent of their legal guardians, and only if it is in the public interest and it is in the best interest of the child.

## 5. Discrimination and Hate Speech

5.1. Except where it is strictly relevant to the matter reported and it is in the public interest to do so, the press shall avoid discriminatory or denigratory references to people's race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or other status, nor shall it refer to people's status in a prejudicial or pejorative context.

5.2. The press has the right and indeed the duty to report and comment on all matters of legitimate public interest. This right and duty must, however, be balanced against the obligation not to publish material that amounts to:

- 5.2.1. Propaganda for war;
- 5.2.2. Incitement of imminent violence; or
- 5.2.3. Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

## 6. Advocacy

A publication is justified in strongly advocating its own views on controversial topics provided that it treats its readers fairly by:

- 6.1. Making fact and opinion clearly distinguishable;
- 6.2. Not misrepresenting or suppressing relevant facts; and

6.3. Not distorting the facts.

## 7. Comment

7.1. The press shall be entitled to comment upon or criticise any actions or events of public interest provided such comments or criticisms are fairly and honestly made.

7.2. Comment by the press shall be presented in such manner that it appears clearly that it is comment, and shall be made on facts truly stated or fairly indicated and referred to.

7.3. Comment by the press shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair account of all available facts which are material to the matter commented upon.

## 8. Children

The Bill of Rights (Section 28.2) in the South African Constitution states: "A child's best interests are of paramount importance in every matter concerning the child."

8.1. The press shall therefore exercise exceptional care and consideration when reporting about children under the age of 18. If there is any chance that coverage might cause harm of any kind to a child, he or she shall not be interviewed, photographed or identified unless a custodial parent or similarly responsible adult consents, or a public interest is evident.

8.2. Child pornography shall not be published.

Child Pornography is defined in the Film and Publications Act as: Any image or any description of a person, real or simulated, who is or who is depicted or described as being, under the age of 18 years, engaged in sexual conduct; participating in or assisting another person to participate in sexual conduct; or showing or describing the body or parts of the body of the person in a manner or parts of the body of the person in a manner or circumstance which, in context, amounts to sexual exploitation.

8.3. The press shall not identify children who have been victims of abuse, exploitation, or who have been charged with or convicted of a crime, unless a public interest is evident and it is in the best interests of the child.

## **9. Violence**

Due care and responsibility shall be exercised by the press with regard to the presentation of brutality, violence and suffering.

## **10. Headlines, Posters, Pictures and Captions**

10.1. Headlines and captions to pictures shall give a reasonable reflection of the con-

tents of the report or picture in question.

10.2. Posters shall not mislead the public and shall give a reasonable reflection of the contents of the reports in question.

10.3. Pictures shall not misrepresent or mislead nor be manipulated to do so.

## **11. Confidential and anonymous sources**

11.1. The press has an obligation to protect confidential sources of information.

11.2. The press shall avoid the use of anonymous sources unless there is no other way to deal with a story. Care should be taken to corroborate the information.

11.3. The press shall not publish information that constitutes a breach of confidence, unless a legitimate public interest dictates otherwise.

## **12. Payment for Articles**

The press shall avoid shady journalism in which informants are paid to induce them to give the information, particularly when they are criminals - except where the material concerned ought to be published in the public interest and the payment is necessary for this to be done.

[www.presscouncil.org.za/](http://www.presscouncil.org.za/)

APPENDIX 2

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







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

## 1. Definitions

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

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

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

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

**“child pornography”** means any description or visual image, real or simulated, however created, explicitly depicting a person who is or who is depicted as being under the age of 18 years

- (a) engaged in or participating in sexual conduct;
- (b) engaged in an explicit display of genitals; or
- (c) assisting another person to engage in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience;

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

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

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

**“watershed period”** means the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees and 20h00 and 05h00 for subscription television Broadcasting service licensees.


## 2. Scope of Application

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

## 3. Violence

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

- (a) contains violence which does not play an integral role in developing the plot, character or theme of the material as a whole; or



(b) sanctions, promotes or glamorises violence or unlawful conduct.

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

## 5. Exclusions

Clauses 3 and 4 do not apply to:

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

## 6. Children

- (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.

(2) Broadcasting service licensees must exercise particular caution, as provided below, in the depiction of violence in children's programming.

(3) In children's programming portrayed by real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.


(4) Animated programming for children, while accepted as a stylised form of story-telling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.

(5) Programming for children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.

(6) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household object as toys.

(7) Programming for children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.

(8) Programming for children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.

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- (9) Programming for children must not contain frightening or otherwise excessive special effects not required by the story line.
  - (10) Offensive language, including profanity and other religiously insensitive material, must not be broadcast in programmes specially designed for children.
  - (11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children is likely to be part of the audience on television or radio.

### **7. Watershed Period**

- (1) Programming on television which contains scenes of explicit violence and/or sexual conduct and/or nudity and/or grossly offensive language intended for adult audiences must not be broadcast before the watershed period.
- (2) Promotional material and music videos which contain scenes of explicit violence and/or explicit threatening violence and/or sexual conduct and/or the fondling or touching of breasts and/or genitalia or the anus and/or nudity and/or offensive language intended for adult audiences must not be broadcast before the watershed period.
- (3) Some programmes broadcast outside the watershed period may not be suitable for very young children. Licensees must provide sufficient information, in terms of regular scheduling patterns or audience advisories, to assist parents and de facto or legal guardians to make appropriate viewing choices.


- (4) Television broadcasting service licensees may, with the advance of the watershed period, progressively broadcast more adult material.
- (5) Broadcasting service licensees must be particularly sensitive to the likelihood that programmes which commence during the watershed period and which run beyond it may then be viewed by children.

### **8. Sexual Conduct**

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

### **9. Audience Advisories**

- (1) To assist audience in choosing programmes, television broadcasting



service licensees must provide advisory assistance which, when applicable, must include guidelines as to age, where such broadcasts contain violence, sex, nudity an/or offensive language. The advisory must be visible on the screen for a minimum of 90 seconds at the commencement of the programme and for a minimum of 30 seconds after each advertisement or other break. Where the frequency of the said subject matters, or any one or some of them, is high, a continuous advisory will be necessary, whether it is broadcast before or after the watershed.


- (2) The following visual advisory age system must be used: 10, 13, 16 and 18. The following symbols must be used in accordance with the relevant content: V(violence), L(language), N(nudity), S(sex), PG(Parental Guidance).
- (3) An audio advisory before the commencement of the programme must also accompany the broadcast of a film with an age restriction of 18.

#### **10. Classification by Films and Publications Board**

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

#### **11. News**

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



part of news or not, without the prior valid consent of the victim concerned.

- (8) Broadcasting service licensees must advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject-matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates.
- (9) Broadcasting service licensees must not include explicit or graphic language related to news of destruction, accidents or sexual violence which could disturb children or sensitive audiences, except where it is in the public interest to include such material.

## 12. Comment

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

## 13. Controversial Issues of Public Importance

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

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


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

## 14. Elections

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

## 15. Privacy, Dignity and Reputation

- (1) Broadcasting service licensees must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.

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- (2) In the protection of privacy, dignity and reputation special weight must be afforded to South African cultural customs concerning the privacy and dignity of people who are bereaved and their respect for those who have passed away.
  - (3) In the protection of privacy, dignity and reputation special weight must be afforded to the privacy, dignity and reputation of children, the aged and the physically and mentally disabled.

#### **16. Competitions and Audience Participation**

- (1) Where audiences are invited on air to react to a programme or competition broadcasting service licensees must

make known the full cost of a telephone call or a SMS.

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

[http://bccsa.co.za/index.php?option=com\\_content&view=article&id=547&Itemid=35](http://bccsa.co.za/index.php?option=com_content&view=article&id=547&Itemid=35)