

## MEDIA COMMISSION

### Advertising Code of Media Practice

This Code has been approved by the Media Commission on an interim basis and issued under section 23 of the Media Act 2004.

The Act defines an Advertisement –

“Advertisement” means any programme or article, or part of a programme or article, which promotes to the public or segment thereof, a product or service for the commercial advantage of any person, or which promotes a behaviour or line of conduct for the benefit of any person, or which advocates an idea, belief, or political opportunity, and for which in each case payment is made whether in money or otherwise.

The following media standards contained in section 22 of the Media Act 2004 apply to advertisements. Broadcasters and publishers are responsible for maintaining standards which are consistent with:

- (a) The observance of good taste and decency taking into account community standards and the context of the advertisement; and
- (b) The maintenance of law and order; and
- (c) The privacy of the individual; and
- (d) The interests of child listeners and viewers.

Broadcasters and publishers are also responsible for maintaining standards consistent with the principles of advertising which require that advertisements:

- (e) Comply with the laws of the Cook Islands; and

- (f) Are prepared with a due sense of social responsibility to consumers and society; and
- (g) Respect the principles of free and fair competition.

The following guidelines are to be used in the interpretation of the media standards and the advertising principles contained in paragraphs (a) to (g) above.

1. **Identification** – Advertisements shall be clearly distinguishable as such whatever their form and whatever the medium used. When an advertisement appears in a medium which contains news or editorial matter, it must be presented so that it is readily recognised as an advertisement.
2. **Truthful Presentation** – Advertisements shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false or misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).
3. **Research, Tests and Surveys** – Advertisements shall not use tests and surveys, research results or quotations from technical and scientific literature, in a manner which is misleading or deceptive.
4. **Decency** – Advertisements shall not contain anything which clearly offends against generally prevailing community standards of decency taking into account the context, medium, audience and product (including services).
5. **Offensiveness** – Advertisements shall not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

6. **Fear** – Advertisements shall not exploit the superstitious, nor without justifiable reason, play on fear.
7. **Violence** – Advertisements shall not contain anything which lends support to unacceptable violent behaviour.
8. **Denigration** – Advertisements shall not denigrate identifiable products or competitors.
9. **Testimonials** – Advertisements shall not contain or refer to any personal testimonial unless it is genuine, current, related to the experience of the person giving it and representative of typical and not exceptional cases. The claims in the testimonial shall be verifiable.
10. **Privacy** – Unless prior permission has been obtained an advertisement shall not portray or refer to any persons, whether in a private or a public capacity, or refer to any person's property, in a way likely to convey the impression of a genuine endorsement.
11. **Advocacy Advertising** – Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion shall be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue shall be clear.
12. **Safety** – Advertisements shall not, unless justifiable on educational or social ground, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.

MEDIA COMMISSION  
Print Code of Media Practice

This Code which applies to publishers has been approved by the Media Commission on an interim basis and issued under section 23 of the Media Act 2004.

The Act defines a publisher –

“Publisher” means any individual, organisation or body corporate which publishes a newspaper or newsletter, or similar publication at least once a week or more often during most of the calendar year and the publication is

- (a) distributed to subscribers or other named recipients on payment by money or otherwise, or without payment, or
- (b) distributed by other means whereby residents of the Cook Islands generally, or specific groups of residents, may acquire the publication on payment by money or otherwise, or without payment.

A “publication” is the newspaper, newsletter or similar product published by a “publisher.”

The following media standards contained in section 22 of the Media Act 2004 apply to publications. Publishers are responsible for maintaining standards which are consistent with –

- (a) The observance of good taste and decency, taking into account community standards and the context of the article.
- (b) The maintenance of law and order; and
- (c) The privacy of the individual; and
- (d) The principle of balance that when controversial issues of public importance are addressed in news and current affairs, reasonable efforts are made, or reasonable opportunities are given, to present significant

points of view either in the same programme or publication, or in other programmes or publications within the period of current interest, subject to the right of all publishers to put forward editorial opinion provided the editorial nature of the comment is clearly apparent to the reader; and

- (e) The requirement that news and current affairs are truthful and accurate on points of fact; and
- (f) The requirement to deal justly and fairly with any person referred to in an article; and
- (g) The requirement to consider the interests of child readers.

When applying the media standards to a publication, the Media Standards Council and the Media Commission, as the case may be, shall interpret the standards with regard to the following guidelines –

1. Accuracy – Publications shall be guided at all times by accuracy, fairness and balance, and shall not deliberately mislead or misinform readers by commission or omission.
2. Corrections – Where it is established that there has been published information that is materially incorrect then the publication shall promptly correct the error giving the correction fair prominence. In some circumstances it will be appropriate to offer an apology and a right of reply to an affected person or persons.
3. Privacy – Everyone is entitled to privacy of person, space and personal information, and these rights shall be respected by publications. Nevertheless the right of privacy shall not interfere with publication of matters of public record, or obvious significant public interest.

Publications shall exercise care and discretion before identifying relatives of persons convicted or accused of crime where the reference to them is not directly relevant to the matter reported.

Those suffering from trauma or grief call for special consideration, and when approached, or enquiries are being undertaken, careful attention is to be given to their sensibilities.

4. Confidentiality – Editors have a strong obligation to protect against disclosure of the identity of confidential sources. They also have a duty to take reasonable steps to satisfy themselves that such sources are well informed and that the information they provide is reliable.
5. Children and Young People – Editors shall have particular care and consideration for reporting on and about children and young people.
6. Comment and Fact – Publications shall make proper distinctions between reporting of facts and conjecture, passing of opinions and comment.
7. Advocacy – A publication is entitled to adopt a forthright stance and advocate a position on any issue, provided it complies with guideline 6 when doing so.
8. Discrimination – Publications shall not place gratuitous emphasis on gender, religion, minority status, sexual orientation, age, race, colour or physical or mental disability. Nevertheless, where it is relevant and in the public interest, publications may report and express opinions in these areas.

9. Subterfuge – Editors shall not sanction misrepresentation, deceit or subterfuge to obtain information for publication unless there is a clear case of public interest and the information cannot be obtained in any other way.
  
10. Headlines and Captions – Headlines, sub-headings, and captions shall accurately and fairly convey the substance of the report they are designed to cover.
  
11. Photographs – Editors shall take care in photographic and image selection and treatment. They shall not publish photographs or images which have been manipulated without informing readers of the fact and, where significant, the nature and purpose of the manipulation. Those involving situations of grief and shock are to be handled with special consideration for the sensibilities of those affected.
  
12. Letters – Selection and treatment of letters for publication are the prerogative of editors who are to be guided by fairness, balance, and public interest in the correspondents' views.

MEDIA COMMISSION  
Radio Code of Media Practice

This Code has been approved by the Media Commission on an interim basis and issued under section 23 of the Media Act 2004.

“Radio broadcasting” means any transmission by radio waves of programmes containing sounds, whether or not encrypted, for the reception by the public by means of broadcasting receiving apparatus.

The media standards contained in section 22 of the Media Act 2004 apply to radio broadcasting. When applying the specific media standards to a radio broadcast, the Media Standards Council and the Media Commission, as the case may be, shall interpret each statutory standard, repeated below under (a) to (g), with regard to the following guidelines –

- (a) The observance of good taste and decency, taking into account community standards and the context of the programme.

Guidelines

- (i) Broadcasters will take into consideration current norms of decency and good taste in language and behaviour bearing in mind the context in which any language or behaviour occurs and the wider context of the broadcast eg time of day, target audience. The examples are not exhaustive.
- (ii) Broadcasters shall ensure that any violence contained in the programme is not gratuitous and is justified by the context.
- (iii) The time of transmission is an important consideration in the scheduling of programmes which contain violent themes.



(iv) If a programme is likely to disturb, an appropriate warning should be broadcast. Warnings shall be specific in nature, while avoiding detail which may itself distress or offend viewers.

(b) The maintenance of law and order.

#### Guidelines

- (i) Broadcasters must respect the principles of law which sustain our society.
- (ii) The realistic portrayal of anti-social behaviour, including violent and serious crime and the abuse of liquor and drugs, shall not be shown in a way that glamorises these activities.
- (iii) Broadcasters shall ensure that the incidental promotion of liquor is minimised.

(c) The privacy of the individual.

#### Guidelines

Broadcasters shall comply with the following privacy principles –

- (i) The protection of privacy includes protection against the public disclosure of private facts where the disclosure is highly offensive and objectionable to a reasonable person of ordinary sensibilities.
- (ii) The protection of privacy also protects against the public disclosure of some kinds of public facts. The “public” facts contemplated concern events (such as criminal behaviour) which have, in effect, become private again, for example through the passage of time. Nevertheless, the public disclosure of public facts will have to be highly offensive to a reasonable person.
- (iii) There is a separate ground for a complaint, in addition to a complaint for the public disclosure of private and public facts, in

factual situations involving the intentional interference (in the nature of prying) with an individual's interest in solitude or seclusion. The intrusion must be offensive to the ordinary person but an individual's interest in solitude or seclusion does not provide the basis for a privacy action for an individual to complain about being observed or followed or photographed in a public place. The public place defence shall not apply in the rare situations where the facts disclosed, in the opinion of a reasonable person, are not appropriate for public dissemination.

- (iv) The protection of privacy also protects against the disclosure of private facts to abuse, denigrate or ridicule personally an identifiable person. This principle is of particular relevance should a broadcaster use the airwaves to deal with a private dispute. However, the existence of a prior relationship between the broadcaster and the named individual is not an essential criterion.
- (v) The protection of privacy includes the protection against the disclosure by the broadcaster, without consent, of the name and/or address and/or telephone number of an identifiable person. This principle does not apply to details which are public information or to news and current affairs reporting, and is subject to the "public interest" defence in principle (vi).
- (vi) Discussing the matter in the "public interest" defined as of legitimate concern or interest to the public, is a defence to an individual's claim for privacy.
- (vii) An individual who consents to the invasion of his or her privacy, cannot later succeed in a claim for a breach of privacy. Children's vulnerability must be a prime concern to broadcasters. When consent is given by the child, or by a parent or someone *in loco parentis*, broadcasters shall satisfy themselves that the broadcast is in the best interest of the child.

- (d) The principle of balance that when controversial issues of public importance are addressed in news and current affairs, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme, or in other programmes within the period of current interest, subject to the right of all media to put forward editorial opinion provided the editorial nature of the comment is clearly apparent to the listener.

#### Guidelines

- (i) Programmes which approach a topic from a particular personal perspective are acceptable provided the perspective taken is explicit throughout the programme.
- (ii) Talkback programmes shall provide a reasonable on-air opportunity for listeners to ask questions or present rebuttal within the period of current interest.
- (e) The requirement that news and current affairs are truthful and accurate on points of fact.

#### Guidelines

- (i) Significant errors of fact shall be corrected at the earliest opportunity.
- (ii) Factual reports on the one hand, and opinion, analysis and comment on the other, shall be clearly distinguishable.
- (iii) Advertisements and infomercials shall be clearly distinguishable from the programme material.
- (f) The requirement to deal justly and fairly with any person referred to or taking part in a programme.

## Guidelines

- (i) Broadcasters will not portray people in a manner which encourages denigration of or discrimination against any section of the community on account of gender, race, age, disability, occupational status, sexual orientation; or as the consequence of legitimate expression of religious, cultural or political beliefs. This requirement does not extend to prevent the broadcast or material which is:
  - i) factual; or
  - ii) a genuine expression of serious comment, analysis or opinion, or
  - iii) by way of legitimate humour or satire.
- (ii) Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.
- (iii) Programmes shall not be presented in such a way as to cause panic, or unwarranted alarm or undue distress.
- (iv) Contributors to and participants in any programme shall be dealt with fairly and shall, except as required in the public interest, be informed of the reason for their proposed contribution and participation and the role that is expected of them.
- (v) Broadcasters and programme makers shall not obtain information through misrepresentation or deception, except as is required in the public interest when the material cannot be obtained by other means.
- (vi) Broadcasters shall recognise the rights of individuals, and particularly children and young people, not to be exploited, humiliated or unnecessarily identified.
- (vii) No telephone conversation will be recorded or broadcast for the purpose of news, current affairs or any other programme, unless

the recipient has been advised that it is being recorded for possible broadcast, or is aware that the conversation is being broadcast. Exceptions may apply depending upon the context of the broadcast, including the legitimate use of humour.

- (g) The requirement to consider the interests of child listeners or viewers or readers.

#### Guidelines

- (i) Broadcasters shall be mindful of the effect any programme may have on children during their normally accepted viewing times.
- (ii) Broadcasters shall ensure that the appropriate classification codes are observed.
- (iii) Scenes and themes dealing with disturbing social and domestic friction or sequences in which people – especially children – or animals may be humiliated or badly treated, shall be handled with care and sensibility.

#### Definitions

- (i) A child means a boy or girl under the age of 15 years.
- (ii) All programmes shall be classified G – General, PG – Parental Guidance Recommended, or M – Mature. G programmes, although not necessarily aimed at children, exclude material which is likely to be unsuitable for children, and may be broadcast at any time. PG programmes are not necessarily unsuitable for children when subject to the guidance of an adult, and may be broadcast after 7.00 pm until 6.00 am and between 8.00 am and 2.00 pm during weekdays, but not during school holidays. M programmes are programmes containing adult themes and directed at mature audiences. M programmes may be broadcast after 8.30 pm until 5.30 am.

MEDIA COMMISSION  
Television Code of Media Practice

This Code has been approved by the Media Commission on an interim basis and is issued under section 23 of the Media Act 2004.

“Television broadcasting” means any transmission by radio waves of programmes containing visual images, or a combination of sound and visual images, whether or not encrypted, for reception by the general public or by subscribers to a pay television service by means of broadcasting receiving apparatus.

The media standards contained in section 22 of the Media Act 2004 apply to television broadcasting. When applying the specific media standards to a television broadcast, the Media Standards Council and the Media Commission, as the case shall be, shall interpret each statutory standard, repeated below as (a) to (g), with regard to the following guidelines –

- (a) The observance of good taste and decency, taking into account community standards and the context of the programme, article or advertisement.

Guidelines

- (i) Broadcasters will take into consideration current norms of decency and good taste in language and behaviour bearing in mind the context in which any language or behaviour occurs and the wider context of the broadcast eg time of day, target audience. The examples are not exhaustive.
- (ii) Broadcasters shall ensure that any violence contained in the programme is not gratuitous and is justified by the context.

- (iii) The time of transmission is an important consideration in the scheduling of programmes which contain violent themes. If a programme is likely to disturb, an appropriate warning shall be broadcast. Warnings shall be specific in nature, while avoiding detail which may itself distress or offend viewers.

- (b) The maintenance of law and order.

#### Guidelines

- (i) Broadcasters must respect the principles or law which sustain our society.
- (ii) The realistic portrayal of anti-social behaviour, including violent and serious crime and the abuse of liquor and drugs, shall not be shown in a way that glamorises these activities.
- (iii) Broadcasters shall ensure that the incidental promotion of liquor is minimised.
- (iv) Programmes should not glamorise suicide and shall not show or explain in detail how suicides are effected.

- (c) The privacy of the individual.

#### Guidelines

Broadcasters shall comply with the following privacy principles –

- (i) The protection of privacy includes protection against the public disclosure of private facts where the disclosure is highly offensive and objectionable to a reasonable person of ordinary sensibilities.
- (ii) The protection of privacy also protects against the public disclosure of some kinds of public facts. The “public” facts contemplated concern events (such as criminal behaviour) which

have, in effect, become private again, for example through the passage of time. Nevertheless, the public disclosure of public facts will have to be highly offensive to a reasonable person.

- (iii) There is a separate ground for a complaint, in addition to a complaint for the public disclosure of private and public facts, in factual situations involving the intentional interference (in the nature of prying) with an individual's interest in solitude or seclusion. The intrusion must be offensive to the ordinary person but an individual's interest in solitude or seclusion does not provide the basis for a privacy action for an individual to complain about being observed or followed or photographed in a public place. The public place defence shall not apply in the rare situations where the facts disclosed, in the opinion of a reasonable person, are not appropriate for public dissemination.
- (iv) The protection of privacy also protects against the disclosure of private facts to abuse, denigrate or ridicule personally an identifiable person. This principle is of particular relevance should a broadcaster use the airwaves to deal with a private dispute. However, the existence of a prior relationship between the broadcaster and the named individual is not an essential criterion.
- (v) The protection of privacy includes the protection against the disclosure by the broadcaster, without consent, of the name and/or address and/or telephone number of an identifiable person. This principle does not apply to details which are public information or to news and current affairs reporting, and is subject to the "public interest" defence in principle (vi).
- (vi) Discussing the matter in the "public interest" defined as of legitimate concern or interest to the public, is a defence to an individual's claim for privacy.
- (vii) An individual who consents to the invasion of his or her privacy, cannot later succeed in a claim for a breach of privacy. Children's



vulnerability must be a prime concern to broadcasters. When consent is given by the child, or by a parent or someone *in loco parentis*, broadcasters shall satisfy themselves that the broadcast is in the best interest of the child.

- (d) The principle of balance that when controversial issues of public importance are addressed in news and current affairs, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme, or in other programmes within the period of current interest, subject to the right of all media to put forward editorial opinion provided the editorial nature of the comment is clearly apparent to the viewer.

#### Guidelines

- (i) Programmes which approach a topic from a particular personal perspective are acceptable provided the perspective taken is explicit throughout the programme.
- (ii) No set formula can be advanced for the allocation of time to interested parties on controversial public issues. Broadcaster shall aim to present all significant sides in as fair a way as possible, it being acknowledged that this can be done only by judging each case on its merits.
- (e) The requirement that news and current affairs are truthful and accurate on points of fact.

#### Guidelines

- (i) Significant errors of fact shall be corrected at the earliest opportunity.

- (ii) Factual reports on the one hand, and opinion, analysis and comment on the other, shall be clearly distinguishable.
  - (iii) Advertisement and infomercials shall be clearly distinguishable from the programme material.
  - (iv) Broadcasters shall refrain from broadcasting material which is misleading or unnecessarily alarms viewers.
- (f) The requirement to deal justly and fairly with any person referred to in an article or programme, or is taking part in a programme.

### Guidelines

- (i) Broadcasters will not portray people in a manner which encourages denigration of or discrimination against any section of the community on account of gender, race, age, disability, occupational status, sexual orientation; or as the consequence of legitimate expression of religious, cultural or political beliefs. This requirement does not extend to prevent the broadcast of material which is:
  - i) factual; or
  - ii) a genuine expression of serious comment, analysis or opinion, or
  - iii) by way of legitimate humour or satire.
- (ii) Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.
- (iii) Programmes shall not be presented in such a way as to cause panic, or unwarranted alarm or undue distress.
- (iv) Contributors to and participants in any programme shall be dealt with fairly and shall, except as required in the public interest, be

informed of the reason for their proposed contribution and participation and the role that is expected of them.

- (v) Broadcasters and programme makers shall not obtain information through misrepresentation or deception, except as is required in the public interest when the material cannot be obtained by other means.
- (vi) Broadcasters shall recognise the rights of individuals, and particularly children and young people, not to be exploited, humiliated, or unnecessarily identified.
- (vii) Broadcasters should avoid causing unwarranted distress to surviving family members by showing library or archival footage of bodies or human remains. This guideline is not intended to prevent the use of material which adds significantly to the understanding of an issue of public interest.

- g. The requirement to consider the interests of child listeners or viewers or readers.

#### Guidelines

- (i) Broadcasters shall be mindful of the effect any programme may have on children during their normally accepted viewing times.
- (ii) Broadcasters shall ensure that the appropriate classification codes are observed.
- (iii) Scenes and themes dealing with disturbing social and domestic friction or sequences in which people – especially children – or animals may be humiliated or badly treated, shall be handled with care and sensibility.
- (iv) Children's cartoons should avoid gratuitous violence, especially involving humans or human-like creatures unless, even to the youngest of viewers, the themes are clearly fanciful or farcical.

## Definitions

- (i) A child means a boy or girl under the age of 15 years.
- (ii) All programmes shall be classified G – General, PG – Parental Guidance Recommended, or M – Mature. G programmes, although not necessarily aimed at children, exclude material which is likely to be unsuitable for children, and may be broadcast at any time. PG programmes are not necessarily unsuitable for children when subject to the guidance of an adult, and may be broadcast after 7.00 pm until 6.00 am and between 8.00 am and 2.00 pm during weekdays, but not during school holidays. M programmes are programmes containing adult themes and directed at mature audiences. M programmes may be broadcast after 8.30 pm until 5.30 pm.

MEDIA COMMISSION  
Internet Code of Media Practice

This Code has been approved by the Media Commission on an interim basis and issued under section 23 of the Media Act 2004.

“Internet content” means stored information which is accessed over an Internet carriage service, including material on the World Wide Web, postings on news groups and bulletin boards, and other files that can be downloaded from an archive or a library. For the purposes of this Act it does not include ordinary e-mail or information that is accessed in real time without being stored, such as chat services and voice over the Internet.

The following statutory media standards contained in section 22 of the Media Act 2004 apply to Internet content. Internet service providers based in the Cook Islands are responsible for maintaining standards which are consistent with:

- (a) The observance of good taste and decency, taking into account community standards and the context of the content.
- (b) The maintenance of law and order; and
- (c) The privacy of the individual; and
- (d) The principle of balance that when controversial issues of public importance are addressed in news and current affairs, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same content, or in other content.
- (e) The requirement that news and current affairs are truthful and accurate on points of fact; and
- (f) The requirement to deal justly and fairly with any person referred to; and
- (g) The requirement to consider the interests of children.

In its application of the Internet Code of Broadcasting Practice, the Media Standards Council's aim is to address community concerns about offensive and illegal content on the Internet, including gambling, and, in particular, to protect children from exposure to material that is unsuitable for them. Accordingly, the Council will investigate complaints about Internet content from this perspective.

If the complaint is upheld, and the content is hosted in the Cook Islands, the Council may order the Internet content host to remove the content from its service.

If the complaint is upheld and amounts to a serious breach of the standards (for example, child pornography), the Council may refer the material to the appropriate law enforcement agency.

If the complaint is upheld and does not amount to a serious breach, the Council may report the matter to the Commission which may:

- (1) Provide advice and information to the complainant specifically and the community generally about Internet safety issues, especially those relating to children's use of the Internet; and
- (2) Liaise with relevant overseas bodies.