



Response to Phase 3

The Code of Programme Standards

31 October, 2006.

Question 1

- What are your views on the five objectives proposed for inclusion in the Code?
- Please provide a rationale for your response.

1. Objectives of the BCI Code of Programme Standards

- To promote responsible broadcasting where entertainment, education and access to information and a range of views is enhanced and offence and harm is reduced
- To acknowledge the diversity of tastes and interests which exists within viewing and listening audiences and to facilitate broadcasting that caters for this diversity
- To inform viewer and listener choice
- To provide guidance to broadcasters
- To inform viewers and listeners on the standards they can expect from broadcasting services.

These objectives are stated in very positive terms and, as such, it would be unlikely that they would prompt negative reactions, in general. “Promoting responsible broadcasting” is an idea that no one could have difficulty with. One of the reasons for this is that the expression can be taken to mean whatever one wants it to mean. Family and Media Association (FMA) believe that more is required of a Code of Programme Standards.

Generally nebulous statements that everyone will agree with, precisely because their meaning is so unclear, do not, we believe, fulfill the requirements of the Broadcasting Act, 2001. The tone of this Act is quite different. It speaks of “*specifying standards to be complied with, and rules and practices to be observed...*”.

Promoting responsible broadcasting is an important aspiration in the same sense that it is important to promote responsible behaviour for school teachers. But in both instances merely promoting responsible behaviour is not enough. Some behaviour must not be allowed of teachers as it must not be allowed of broadcasters (teachers of another type) as that behaviour would have serious consequences for the vulnerable.

Entertainment should be enhanced, but only where no harm is caused. Is a toxic broadcasting environment too high a price to pay for unregulated entertainment? An unwillingness to “censor” or “sanitize” regardless of whatever consequences there may be (and in fact are – as borne out by research) for not doing so, seems to leave the Code of Programming Standards open to the charge of being a Code, *in name only*.

In conflict with one of the stated aims of the Code’s development process: “we won’t tell broadcasters what they can and cannot broadcast, you will”, is the constantly implied message that “censorship” is a bad thing (“It’s not about censorship”). If it really is *the public* who decides, why is the same public, effectively, being told what to think about the issues it is being asked to decide on? Is this not an example of promoting certain moral ‘standards’, namely that “censorship” and “sanitizing” are bad in themselves? The question is not, it seems, whether or not standards should be promoted but, *what* standards should be promoted. The appearance of neutrality is just that, an appearance.

It is not surprising that such a large number of submissions in Phase 2 (see BCI Code of Programme Standards, Statement of Outcomes, Phase 2 Public Consultation – Statement of Outcomes, page 3) were considered to be in conflict with a prohibition on censorship and therefore rejected as not being “relevant”.

Firstly, the positive and very general wording of the objectives and the phase 1 consultation document, as a whole, as well as the length of the document, would have made it difficult for many people to understand what was actually being

proposed in phase 1. The level of understanding would necessarily have improved for phase 2, by which time the consequences of these objectives as interpreted by the BCI were made clearer, in that they were given concrete expression in the Code's rules or shortage of them. Secondly the BCI seems to have interpreted a number of ideas to be in conflict with its stated objectives which are not, actually, in conflict with them and which a large number of people would not see as being in conflict.

For example, "promoting responsible broadcasting" is not in conflict with "censorship", in fact it presupposes it. Neither is "diversity" in conflict with 'natural moral standards'. Here again a large number of people would not see these concepts as being in conflict. It depends on what *type* of diversity is being promoted. If the phase 1 document had 'called a spade a spade' and used the term "moral diversity" it would be unlikely that so many responses would be critical in phase 2 but the objectives might have received a 'rougher ride' as they would have better reflected the way the Code was to be developed and the term would have been more likely to have been picked up by people while wading through the generalities.

Diversity of tastes and interests, this very positive sounding term which is contained in the second objective, is of itself a good thing and, of course, should be catered for.

However tastes and interests cannot be put on a par with the well being of children, in particular, *and their right to a healthy environment*. Children's rights are more important than adults' tastes. The term "tastes and interests" also has a positive connotation in that it does not bring to mind anything harmful. The reality, unfortunately, is that the tastes and interests of some are very harmful to others. The diversity which needs to be catered for, therefore, is the diversity which respects the rights of all by adhering to what is real, that is to the truth which implies a 'natural moral law'. As we have pointed out in our previous submissions, the three major Religions are not lacking in diversity and yet are all based on this law.

If the BCI, on the other hand, continues to adopt, as a principle, this highly radical, individualistic ideal of everyone (including, to judge by the research design used at the beginning of the process, children and those with disordered sexual affectivity) pursuing their own tastes regardless of reality and the consequences for others, we believe that it will contradict the spirit of the Broadcasting Act (indeed the Act refers to "*Taste and Decency*" not "*Tastes and Interests*") and additionally will be taking a step towards a 'brave new world'. A radical 'yes' such as this is really a "no" for everyone.

These first two objectives seem to strike at the heart of the Code as envisioned by the Broadcasting Act. The next two objectives are positive ideals but do not really refer to the substance of the Code of Programme standards. The meat – although somewhat euphemistically expressed - seems to be in the first two

objectives. The fifth objective *is* positive in that it should help the Code to be 'operated' more effectively by the public. It acknowledges, implicitly, the need for transparency which in turn makes for confidence in the system. This transparency seems to have been lacking however in the earlier stages of preparation of the Code, as outlined above, which has allowed, in FMA's view, a certain momentum to have been built up for an interpretation of the objectives (a censorship of censorship etc.) which we do not believe has broad support among healthy adults.

Finally, the retention of the expression: "where (offence and) harm is reduced", in the first objective, seems to imply, at one and the same time, that broadcasting is both harmful (if it were not harmful, then harm would not need to be reduced) and accepted, at a certain level (harm is merely to be reduced, not eliminated - as though it were some form of necessary evil to be tolerated, or in the words of the Statement of Outcomes as though "broadcasts of harmful programme material were unavoidable" – page 6). To avoid ambiguity and inconsistency, and simply to remove what really seems to be an amazing aspiration, when analysed, this wording should now be changed in line with a similar change made to other parts of the Code (please see our response to question 2)

Question 2

- What are your views in relation to each of the five content principles proposed for inclusion in the Code?
- Please provide a rationale for your response.

2. Content Principles

2.1. General Community Standards

2.2 Audience Information and Guidance

2.3 Due Care

2.4 Protection for Children

2.5 Assessment

“This Code does not attempt to provide rules for every possible programme scenario nor does it attempt to define what is offensive. An understanding of this approach is key to an understanding of the *BCI Code of Programme Standards* and the manner in which it will operate in practice”

The ‘principles (only) approach’ as stated here does not serve the public well. It has the appearance of doing so because it seems at first to be democratic (“it attempts to accommodate changes in social mores”, Draft Code of Programme Standards, page 11).

Specific rules may always be untrue to principles and they may be interpreted legalistically but, in the final analysis, principles always come with clear rules when there is sufficient public concern about the consequences for breaking those principles. Would we be happy to cycle knowing there were merely ‘principles of the road’ applying to truck drivers.

The power of broadcasting, both for good and for bad, clearly indicates rules. There is a sense in which Television in particular is bringing up our children and, normally, we wouldn’t let just anyone look after our children. So, are we really happy to entrust our children to a carer who works only on ‘lowest common denominator’ principles which reflect “the diversity of tastes and interests which exist” in the population, a population which includes paedophiles. Would we be happy to entrust them to people whom, by virtue of their age, society does not generally think mature enough to be parents themselves and to whom we don’t consider it appropriate to give the right to vote. By basing our understanding of

social mores on a sample which includes 15 year olds and which is otherwise representative of the population, this is *exactly* what we *are* doing.

Parents and children do not have equal rights when deciding what to watch on television. Why are they being given equal rights when deciding what can be broadcast. In fact, the type of diversity that is at present being proposed in the Code means that they will have more than equal rights, since minority tastes must be catered for and *cannot* be vetoed by the majority even where the expression of these tastes is at the majority's expense. In this sense Madonna is right when she says that "television is poison".

There is a deeper problem, too, with basing the Code on the 'shifting sands' of social mores: there are fundamental values that do not change from one period to another and are not of a subjective nature, such as the rights of parents, the rights of the family, the right to life, the right to education and other rights subject to the common good of society. If such rights are treated as though they are subject to changes in commonly *held* values then no one is, actually, *free* because everyone's freedom is dependent on what someone else thinks, not on 'the way things are'. States which do not defend rights as being independent of attitudes descend, ultimately, into totalitarianism (e.g. Nazi Germany, post war communist Russia), and the idea of 'flexibility' or, put more accurately, 'flexible morality', while possibly sounding democratic and liberating, is actually a recipe for enslavement.

The requirement, furthermore, that it is only "*commonly* held values" (see principle 2.1) that are not to be offended against (i.e. those 'lowest common denominator' values that are held by *everyone* (remembering that society as a whole includes those whose tastes are in the worst interests of everyone else) – means that this is in some sense an enslavement of the majority by a minority.

Fortunately, however, Bunreacht Na hÉireann recognizes the rights referred to above. Article 40.6.1 of an Bunreacht reads:

*" The State guarantees liberty for the exercise of the following right(s), subject to public order and morality:-
i The right of the citizens to express freely their convictions and opinions. The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to insure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State. The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law."*

Importantly, the State *recognizes* these rights, it does not *grant* them. These rights exist. They are based on reality and not subject to shifting sands.

Accordingly, it is highly questionable whether the approach to developing the Code and the rationale for that approach as outlined in the 'Draft BCI Code of Programme Standards' is, in fact, constitutional. It is certainly not practical.

FMA welcomes, greatly, the introduction of a principle on *Audience Information and Guidance* (principle 2.2). It seems amazing, however, that in spite of the fact that "the majority of respondents requested the Commission to specify the type of audience information and guidance to be provided by broadcasters rather than leave it to their discretion" (Statement of Outcomes, page 18), the Commission has decided to pursue its own view that "a discretionary approach is more appropriate...". What then becomes of the statement: "we won't tell broadcasters what they can and cannot broadcast, you will"? Where offensive and harmful material is concerned the public has a right to be protected and should hardly be expected to trust the discretion of those who would risk harming them or their children.

Also, contained, now, under the new principle, we very much welcome the alteration in the following statement which was originally contained under the principle, 'due care': "A broadcaster must take all reasonable measures to ensure that viewers and listeners to programme material on their channel/service are protected from undue offence and harm." This wording seemed to imply circumstances, as FMA had pointed out in its previous submissions, where "harm is *not* considered undue". The statement now reads: "A broadcaster must take all reasonable measures to ensure that viewers and listeners to programme material on their channel/service are protected from undue offence and from harm."

Notwithstanding, our welcome for this change, which clearly distinguishes between 'harm' and 'offence', the transferring of this requirement from the 'Due Care' principle to that of 'Audience Information and Guidance' gives the false impression, unfortunately, that harm can be successfully avoided by making announcements about what is harmful, rather than by 'censoring' or 'sanitizing' material. The statement of Outcomes also expresses, more strongly, the requirement on broadcasters, referring to it as "a requirement to avoid harm in *all* instances" (page 6). This document also refers to the "obligation" on broadcasters "to protect (the audience) from all harm" (page 6). Wordings such as these are preferable to that contained in the Code, at present.

With respect to the principle of 'Due Care', certain material will carry with it a serious risk whenever it is scheduled and whatever additional measures are taken. Broadcasting self-harm, in particular, which includes suicide, places children at risk, in general, if it is screened before the watershed. However if it is broadcast after the watershed then, paradoxically, the *most* vulnerable children are at risk: children who do not have proper parental supervision, for example. At increased risk also are those suffering from depression with accompanying hopelessness.

Loneliness can be experienced most intensely late at night when suicide is most likely to occur. Due care, in practical terms, should really mean that this material and material involving violence, and particularly sexual violence, not be broadcast at all.

While FMA welcomes any attempt to protect children, it cautions that merely including a principle on *The Protection of Children* (those under 18), without actually providing for their adequate protection, creates a dangerous and false sense of security. To do so is not honest and it is a betrayal of the trust that the most vulnerable members of society are forced to place in us. In this regard it is common knowledge that children may watch programmes at *any* time of the day and, again, it is often the most vulnerable - those without proper parental supervision - who are most likely to watch television under circumstances not usually associated with children's viewing. We have a responsibility towards those children and it is not acceptable to wash our hands of their problems by blaming parents.

FMA welcomes, however, the highlighting of the circumstances for which particular care is being proposed which shows that thought/research has gone into considering children's viewing behaviour.

None of these contextual factors included under the principle of *'Assessment'* can, of themselves, make what is harmful not harmful or what is offensive not offensive. "Strong support" for the use of contextual factors does not in any way imply a belief in their *sufficiency*, only, if anything, in their *necessity*.

However it is to be welcomed that all programme material must conform to all principles. FMA reiterates its concern about the use of the term "editorially justifiable" without making clear what is meant by the term. We reject the reasons given for not defining this term and others, for the reasons outlined by FMA in our answer to question 1.

We also reiterate our concern that it is, ultimately, not possible to know what the composition of the audience listening to or watching a programme will be and therefore we cannot use a *perception* of the likely composition of the audience to justify inclusion of material which would be harmful or offensive to members of the *actual* audience. To pretend that we know who is watching is either a moral copout or naïve.

It may also be the case that those who claim not to be *offended* are in fact those who are most susceptible to *harm*. For example, in the Lansdowne Market Research attitudinal survey referred to earlier which was commissioned by the BCI, it was found that the majority of the 30% who claimed never to have been offended by anything they heard or saw on radio and TV were under 24 years of age. Given that this age group includes children from the age of 15, it doesn't take a genius to spot that there are serious problems with some of the inferences

that have been (over) extrapolated from this study. It is highly unlikely that a majority of parents would consider that their 15 year old children would be in a better position than themselves to decide what was safe for them to watch or listen to. **Why then are their views being allowed to skew this research with the implication that if *some* members of the survey sample find material acceptable then their tastes *must* be accommodated? Not only does this oppose the legitimate rights and obligations of parents to exercise judgement on how best to bring up their children, it also fails to take into account the fact that these children will probably hold very different views in regard to what they themselves should have been allowed to view when they are older and in a better position to make that judgement.**

It is also difficult to imagine a paedophile or psychopath indicating that they are offended by material which some of them have claimed to be the reason behind their attacks. It is more than plausible that their views go to make up the “diversity of audience tastes and interests” referred to in the various consultation documents, particularly, in light of the finding that between 10% and 20 % of children have been molested by the age of 18 (Kaplan and Sadock, 1994). The mandate of the BCI is to prepare a code specifying rules to be obeyed not to “acknowledge this diversity of tastes and interests” (2.1.1(b), 4.2.2 etc.).

FMA is also concerned that the use of “channel/service type” as a contextual factor may create the mindset whereby certain stations may be tolerated which are extremely harmful and offensive on the grounds that they reflect one aspect of the “diversity of audience tastes”. This should also be rejected for the reasons given above.

The Broadcasting Act, 2001, as we have already pointed out refers to “taste and decency”. Putting the word ‘taste’ together with ‘decency’ implies a particular meaning for the word ‘taste’. This is *not* the same meaning for ‘taste(s)’ implied by the expression “tastes and interest” which does not appear in the Broadcasting Act and should therefore not play a part in the broadcasting code.

Question 3

- What are your views in relation to the rules proposed for Violent Programme Material?
- Please provide a rationale for your response.

3. Content Rules

3.1 Violent Programme Material

3.1.1 As a general rule, broadcasters must have due regard to the appropriateness of, and/or justification for, the inclusion of violent content in programming material.

3.1.2 There are particular forms of violent programme material which require a greater level of editorial justification. The inclusion of the following violent programme material must be justifiable in the context of the development of the narrative and/or characters, or have strong editorial justification:

- Graphic violence
- Sexual violence i.e. rape and/or sexual assault
- Self-harm, including suicide
- Violence against children

3.1.3 In programme material featuring sexual violence, the detail of this violence must be kept to a minimum and such violence must not be condoned.

We have argued, persuasively, we believe, in our response to question 1, for the need generally to define the terms used in the Code. One of the stated reasons for not using definitions, namely, so that terms used will reflect social mores (and not be, necessarily, based on the truth) gives us even greater cause for concern.

In addition to the effective abandoning of reality which this policy implies, there are, also, the practical difficulties of the public and broadcasters alike not knowing what has and has not contravened the Code, because no one knows what the terms really mean, for the simple reason that they don't actually have a meaning.

Therefore, we would like to reiterate our following concerns: rule 1 seems to be a rule in name only. What does having "due regard" actually mean, for example? By a similar token what does "appropriateness and/or justification" mean?

The same could be said of rule 2. Apart, again, from the lack of firm criteria here, with no definitions for terms like "a greater level of editorial justification" and

“strong editorial justification”, it seems that literally anything could be screened that “is justifiable in the context of the development of the narrative and/or characters” which, again, is left undefined as a term but sounds like a way of allowing one to broadcast whatever one feels like and then build a story around it. Even, when taken in context with the other rules, there is, still, in our view, a lack of protection for those who are vulnerable and whose protection depends on *us*.

In rule 3, it is not enough to say that the detail of sexual violence should be kept to a minimum. What this minimum is, should be defined clearly. It should also be made absolutely necessary that this violence not be portrayed in such a way that it might be titillating for any possible viewers. It could also be argued that merely not condoning such violence is not enough - this must be the case for all violence, in fact, and it is particularly worrying that such a requirement is not made explicit for violence against children – but, in view of the self-reinforcing and social learning element in sexual violence, sexual violence should be presented negatively with its negative consequences for both victim and perpetrator, in particular.

These rules taken together seem to be so weak that it is arguable that they are better than having no rules at all since their existence gives the false impression that the Broadcasting Act's requirements have been followed, whereas, practically speaking, it seems they have not.

That such a practically non-existent set of rules on the broadcasting of violent material should be thrown up from phase 1 and now maintained unaltered from phase 2, further highlights, not only the strangeness of a decision to include, in the *National Attitudinal Survey*, children who were, in some cases, 3 years short of being able to vote, but, also, the inordinate degree of influence of broadcasters on the decision making process, by means of the workshop with broadcasters, in particular.

While the experience of broadcasters is very welcome, the general aversion towards censorship among broadcasters is not shared by the public as a whole. This, therefore, is another way in which the process has been skewed. But even allowing for the skewing of the *National Attitudinal Survey*, it seems that the rules do not reflect the level of concern expressed in that survey. It is as though the internal resistance to anything which might *in any way* restrict a broadcaster's freedom is always preferred over the aspiration to protect the viewer.

Finally, a consistent finding of psychologists is that the portrayal of violence without the portrayal of its consequences has extremely harmful effects. Portraying false or incomplete effects is also harmful and untruthful. A rule should be included, therefore, requiring that where violence is portrayed, its full effects should also be portrayed. This should limit the self-reinforcing and social learning effects in violent depictions and, significantly, such a strategy provides part of the therapy for violent offenders.

Question 4

- What are your views in relation to the rules proposed for Sexual Conduct?
- Please provide a rationale for your response.

3.2 Sexual Conduct

3.2.1 As a general rule, broadcasters must have due regard to the appropriateness of, and/or justification for, the inclusion of portrayals of sexual conduct in programming.

3.2.2 Programme material which includes detailed scenes of a sexual nature must be justifiable in the context of the development of the narrative and/or characters, or have strong editorial justification.

3.2.3 The portrayal of sexual relationships between under-aged young people or between an adult and a child must not encourage such activities or portray them as being legal.

3.2.4 Nudity in programme material must only be broadcast when justified by context.

FMA's response to question 1 outlines arguments for the inclusion of firm, well defined criteria and terms in general, within the Code. In the case of the rules for this particular section, a number of terms need to be defined. What do "due regard", "appropriateness" and "justification" mean in rule 3.2.1? As with rule 3.1.2 for 'Violent Programme Material', and while recognizing the way the Code has been strengthened somewhat in phase 3, surely, "justifiable in the context of the development of the narrative and/or characters" (rule 3.2.2) means that nearly anything can be shown provided a story is built around it. Also, what does "strong editorial justification" mean?

If sexual relationships between under-aged young people or between an adult and a child are allowed in a programme (rule 3.2.3), it is not enough, merely, not to encourage such activities. The consequences are far too serious not to present them in such a way that reveals how negative they are for children and adults. However, the "exploring" of these situations, at all, would probably encourage some people to engage in them, in so far as it may open possibilities in their minds or cause them to dwell unduly on those possibilities. This could be dangerous, in particular, for people who have an addiction and for pubescent children who are learning to adjust to cognitive, social, sexual and emotional changes.

For these vulnerable people, it might be practically impossible to present a situation which would not either encourage the behaviour or otherwise be disturbing to their social relationships.

It would clearly not be possible to ensure that *no* pubescent children and *no* paedophiles were watching the programme in question, regardless of what time it was broadcast or what channel it was broadcast on. However we recognize that the new rule on imitative behaviour (please see FMA's response to question 10) should provide some significant protection, in this regard.

In practice, a dry, interview-based documentary, which would be designed to be uninteresting for children, would probably be the only way these topics could be covered.

What does it mean to say that "nudity during programme material must only be broadcast when justified by context"? (rule 3.2.4) Even if the context were defined, it would still allow for the possibility that a programme be artificially built, in some way, around that context. It would - and has been - very tempting for a broadcaster to get ratings or some sort of reaction by presenting nudity, ostensibly, under the pretext of public education.

Again, vulnerable groups should be taken into account. Nudity is unnecessary, given the risk to these people and the impossibility of ensuring they are not watching.

Sexual activity must never be used to titillate as this is an abuse of people's dignity, particularly that of the most vulnerable. The full and realistic consequences of sexual activity should be shown, whether positive in terms of family and selfless self-giving, for example, or negative in terms of std's, cancer and the negative aspects of pregnancy outside the context of family. In this sense the problem with the depiction of sexual activity is that it doesn't show enough. Broadcasters should not be allowed to exploit their audience, *effectively lying about sex by not telling the whole truth about it.*

Question 5

- What are your views in relation to the rules proposed for Coarse Language?
- Please provide a rationale for your response.

3.3 Coarse Language

3.3.1 As a general rule, broadcasters must have due regard to the appropriateness of, and/or justification for, the inclusion of coarse language in programming.

3.3.2 Broadcasters must be alert to, and guard against, the use of coarse language in live programmes.

3.3.3 The use of names considered sacred or holy by believers or their use as expletives in programming can cause offence. Broadcasters shall take a responsible approach to their inclusion during programming and their inclusion must be justifiable.

“The Commission did not approve a request to amend Rule 3 to include a prohibition on the use of sacred or holy names as expletives in programming. The Commission was of the view that a prohibition of this nature would be contrary to the agreed Objectives of the Code given that use of language of this nature may be justified in certain circumstances”
(Statement of Outcomes, page 11)

Given the problems surrounding the interpretation of the *meaning* of the objectives, which we have outlined in our response to question 1, we do not believe that a prohibition on the use of sacred or holy names in programming can be justified on the grounds that this would be “contrary to the agreed objectives of the Code” (Statement of Outcomes, page 11). This *interpretation* of the objectives seems somewhat arbitrary and would not we believe be accepted by a majority. In any event, the use of holy or sacred names as expletives is an exceptionally potent way of alienating many from ‘the process’, which in turn is definitely neither in the interests of broadcasters nor of the Commission. The use of such expletives, in some way, offends against the dignity of everyone.

Rule 1 appears vague and ineffective. Rule 3.3.2 should include a prohibition against the use of four letter words and the like. The top ten swear word list which was rejected (Statement of Outcomes, page 11), could in fact be put to use here, with the proviso that it be updated at regular intervals.

Question 6

- What are your views in relation to the rules proposed for the Portrayal of Persons and Groups in Society?
- Please provide a rationale for your response.

3.4 Portrayal of Persons and Groups in Society

3.4.1 The manner in which persons and groups in society are portrayed must be appropriate and/or justifiable.

3.4.2 Programme material shall not support or condone discrimination against any person or section of the community, in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race or religion.

3.4.3 Programme material must be careful not to stereotype or stigmatise people with a disability. Broadcasters must pay particular attention to the treatment of people with a disability in programmes, including the language used during programming. Colloquial terms of abuse must be avoided.

3.4.4 When portraying criminal activities, broadcasters must avoid an unwarranted correlation between the criminal act and the mental health of the perpetrator.

3.4.5 Programme material must avoid abusive treatment of any religious views or beliefs. This is not intended to prevent critical scrutiny of religion, but rather to prevent unnecessary offence during programming.

These rules appear to be generally very good.

FMA makes the following suggestions:

The use of the word: 'or' in rule 3.4.1 does not seem justifiable. The manner in which persons and groups in society are portrayed must be both appropriate *and* justifiable.

The end of rule 3.4.2 could be amended as follows:” ... disability, illness, race or religion, or on the basis of being a priest, religious, minister, rabbi, imam or other religious minister. This is not intended to prevent critical scrutiny of any of the behaviours of any of these persons or members of these sections of the

community. To avoid any possibility of ambiguity, “sexual orientation” refers only to subjective feelings of attraction. It is not intended, to prevent legitimate assessment of paedophilic or other paraphilic activity, homosexual activity or heterosexual activity which is not in the context of marriage”

In relation to rule 3.4.4, one could add that, where there is actually a negative correlation between the criminal act and the mental health of the perpetrator, this should be referred to. With some mental health disorders, persons who have the disorder may be unusually passive compared with other people and of far greater danger to themselves than to anyone else. They may also be at greater risk of *being* harmed than of harming someone else.

In rule 3.4.5, the words ‘symbols, writings’ should be added after the word ‘views’. We are not convinced by the expressed view to date that it is because causes of offence in this regard arise from religious views and beliefs attached to these symbols, images and practices, the rule as proposed should offer sufficient protection. On the contrary, the addition of the words “symbols, writings” go same way to clarifying what exactly it is that may cause offence and in a sense be harmful to all.

The following could be added to the end of rule 3.4.5: “Satirical programming including cartoons shall constitute “unnecessary offence”.

Question 7

- What are your views in relation to the rules proposed for Factual Programming?
- Please provide a rationale for your response.

3.5 Factual Programming – News, Current Affairs and Documentaries

3.5.1 Factual programming shall not contain material that could reasonably be expected to prejudice respect for human dignity.

3.5.2 Factual programming shall not contain material that could reasonably be expected to cause distress or offence unless it is editorially justifiable and in the public interest.

3.5.3 Factual programming must only emphasise age, colour, gender, national or ethnic origin, disability, race, religion or sexual orientation when such references are justifiable in the context of the programme or in the public interest.

3.5.4 Factual programming shall ensure that the dead are treated with respect. The moment of death must not be shown nor should the dead be shown in close up, unless there is an exceptional public interest justification.

These rules seem very good and FMA, in particular, welcomes the addition of rule 3.5.1. We would also like to propose an addition to these rules, requiring that factual programming items not be selected or presented in such a way as to titillate, as this offends against human dignity and has nothing to do with communicating truth.

Question 8

- What are your views in relation to the rules proposed for Children's Programming?
- Please provide a rationale for your response.

3.6 Children's Programming

3.6.1 Graphic violence, strong sexual content and strong coarse language must not feature during children's programming.

3.6.2 The use of illegal drugs, the abuse of drugs and/or solvents and the misuse of alcohol or tobacco must not be featured in children's programming unless there is strong editorial justification for its inclusion.

3.6.3 Trailers for adult programming containing material not reasonably regarded as suitable for children, must not be shown during children's programming.

3.6.4 Children's programming must not condone anti-social behaviour or encourage others to imitate such behaviour.

As stated in previous sections on violence and sexual activity, it is not possible to ensure that children are not watching other programmes which might not be considered children's programmes or programmes suitable for children. The definition of children's programming, implies that 49% of the audience could be under the age of 18 and yet this would not be considered children's programming. If a particular audience was made up of 1 million viewers, 500,000 children under the age of 10 could be watching (provided there were no other children watching between the ages of 10 and 18) and yet the rules outlined in this section would not apply.

Given the possibility and, in fact, the reality of children being exposed to sexual images, there seems, at times, in this country to be a naiveté about the seriousness of the negative consequences of such exposure. Whereas a recognition of these consequences is generally shared here by psychologists, across ideological divides, in other countries, this recognition seems to be more widespread.

In the United Kingdom, for example Birmingham City Council has recently had to dispatch 10 teams of experts from an *Inappropriate Sexual Behaviour Unit* to deal with the problem of strange and inappropriate sexual behaviour among primary school children as young as 7 and 8 years of age. A member of the unit, social worker Stephan Breton, is quick to point the blame at sexual imagery in the media which children are exposed to and then imitate. The Brook Advisory

Clinic have also drawn attention to the problem. (source Daily Telegraph, 21 July 2006)

As far as the Code of Programme Standards is concerned and the present section on 'Children's Programming', in particular, the rules here seem needlessly weak. There is no reason why *any* violence, sexual content or coarse language should feature during 'Children's Programming' (rule 3.6.1) and the use of illegal drugs etc. need not be featured at all. Rule 3.6.3 is in our opinion a good rule as is rule 3.6.4 except in so far as anti-social behaviour should actually be *discouraged*, bearing in mind all the social psychological/ social learning realities, if it is to be featured, at all.

As with other sections, the *consequences* of behaviours should be explored. Children should also be given positive role models and should not be abused cognitively by changing images and sounds excessively quickly. Care should be taken not to sexualize children, thus robbing them of their childhood. Nor should they be allowed to be groomed for and preyed upon by an overly materialistic market. Rather programming should emphasize their value and worth as children in themselves without needing to prove themselves by being *too* competitive.

Question 9

- What are your views in relation to the rules proposed for the portrayal of drugs, alcohol and solvent abuse?
- Please provide a rationale for your response.

3.7 Portrayal of Drugs, Alcohol and Solvent Abuse

3.7.1 Programme material must not encourage the abuse of drugs and/or solvents or the use of illegal drugs.

3.7.2 Programme material must not encourage the over-consumption or abuse of alcohol.

3.7.3 Programme material must not present depictions, either fictional or factual, which detail techniques for the administration of illegal drugs except when there is strong editorial justification for its inclusion.

3.7.4 The use of illegal drugs, the abuse of drugs and/or solvents, smoking or the drinking of alcohol by children should not be presented in a favourable light.

With regard to rule 3.7.1, if programme material depicts the abuse of drugs etc., then it must go further than simply not encouraging their abuse. It must, bearing in mind all the social psychological/ social learning realities, actually discourage their abuse.

The same applies for the abuse of alcohol which is referred to in rule 3.7.2.

The lack of a definition for “strong editorial justification” is a real problem in rule 3.7.3. Once again, FMA is not convinced by the anti-definition views expressed, to date. Please see our response to question 1, in this regard. Given the risk of behaviour being ‘socially learned’ and given the parallel risk of vulnerable people, including children and recovering addicts being exposed to these depictions, it is hard to imagine such a justification being possible, in reality. FMA is encouraged somewhat by the content of the rule on imitative behaviour (rule 3.8).

With regard to rule 3.7.4, what might not appear to be a “favourable light”, objectively, to an adult, non addict, could well constitute a threat to a child or to an addict who would have different reinforcers and vulnerabilities. The use of illegal drugs, the abuse of drugs and/or solvents, smoking or the drinking of alcohol by children should therefore not be presented at all particularly, *as fiction*. The consequences for getting this wrong are extremely serious and FMA does not believe that a religious like adherence to a particular interpretation of the Code’s proposed objectives to date should prevent all necessary steps from being taken. Please also see our response to question 1 in this regard.

As with other harmful behaviours, there should be a requirement of broadcasters that the consequences of drug, alcohol and solvent abuse always be explored. Children should also be given positive role models.

Question 10

- What are your views in relation to the rules proposed for imitative behaviour?
- Please provide a rationale for your response.

3.8 Imitative Behaviour

Broadcasters must avoid the inclusion of programme content which could encourage people to imitate acts which are dangerous or prejudicial to the environment and/or the health and safety of themselves or others.

This is an extremely important area, psychologically. FMA welcomes the inclusion of this rule along with both of the amendments which have been adopted as a result of the last consultation

The word “encourage” may be a weakness, however. Programme content might have the appearance of discouraging an act while in reality increasing, even unintentionally, the likelihood that a similar behaviour will be performed by one or more of its viewers. It is, however, the broadcaster's responsibility to ensure that he/she understands the psychological mechanisms sufficiently well so that harmful acts will not be performed that would not have been performed had the programme not been viewed. Any depiction which increases the likelihood of a harmful act being performed must therefore be avoided. Included in the acts to be avoided should be “those which are dangerous or prejudicial to their health, safety or well being, to other people's health, safety or well being, which offends against religious views or beliefs and/or which is dangerous to the environment.

We believe a more complete wording would be:

Broadcasters must avoid the inclusion of programme content which could increase the likelihood of people imitating acts which are dangerous or prejudicial to the health, safety or well-being of themselves or others; or which offend against religious views; or which are dangerous or prejudicial to the environment.