

BCI Code of Programme Standards

Statement of Outcomes

Phase 2 Public Consultation

1. Introduction

In March 2006, the Broadcasting Commission of Ireland (“BCI” or “the Commission”) launched the second phase of the development of the *BCI Code of Programme Standards* (“the Code”) in pursuance of its statutory remit, further to the provisions of Section 19 of the Broadcasting Act, 2001. Section 19(1)(a) of this Act requires the BCI to prepare a code specifying standards to be complied with, and rules and practices to be observed, in respect of the taste and decency of programme material, and, in particular, in respect of the portrayal of violence and sexual conduct in such material. The purpose of the second phase of consultation was to seek views on three key areas as follows:

- Content principles under four headings
- Content rules under eight headings
- Mechanisms for providing audience information and guidance

This report details the outcomes of the Commissions deliberations on these key issues on foot of the submissions received to the Phase 2 consultation document. These outcomes have been used to inform the third and final phase of consultation on the *BCI Code of Programme Standards*. Phase 3 entails two activities. Firstly, the publication of the draft *BCI Code of Programme Standards* further to Sections 19(5) and (6) of the Broadcasting Act, 2001. Secondly, a workshop with broadcasters focussing on issues arising in relation to the practical implementation of the Code.

1.1 Brief Summary of Phase Two Activities

Phase 2 of the development of the *BCI Code of Programme Standards* was carried out from 25th March to 16th May, 2006. This phase involved one principle activity, namely the undertaking of a public consultation. Views on the proposed content of the Code were sought.

There were one hundred and forty five submissions received in response to this phase of consultation. The majority of responses came from the general public and organisations representing public interests. Four broadcasters and two industry bodies responded to the consultation. These responses have been summarised in the report entitled ‘*Review of Submissions Received, BCI Code of Programme Standards: Phase 2*’.¹ This document is available on the Commission’s website, www.bci.ie.

¹ Dr. RBM. Quinn, (2006). *Review of Submissions Received, BCI Code of Programme Standards: Phase 1*. BCI, July, 2006.

1.2 General Remarks on Submissions Received

A number of common trends were evident in responses received to the consultation document. These are now outlined in order to contextualise the Commission's deliberations on the issues arising with regard to the proposals in the Phase 2 consultation document and the decisions reached by the Commission.

Firstly, a range of respondents were largely supportive of the proposed principles and rules detailed in the consultation document. In many cases, this support was qualified. Some cautioned against overly prescriptive rules while others raised specific concerns in relation to the proposals. Relevant issues highlighted by respondents were considered as part of the Commission's deliberations and a number of amendments to the Phase 2 proposals will be included in the draft Code as a result.

Secondly, a range of respondents criticised the proposed rules and principles and requested a more restrictive Code which would, if necessary, censor and sanitise programming to achieve this end. Responses of this nature were received in relation to all of the proposals in the consultation document. It was the Commission's view that many of these would have seemed more appropriate in Phase 1 of the consultation process. They were not considered relevant to Phase 2 consultation in light of decisions made by the Commission on completion of the first phase of consultation, including a decision that the aim of the Code is not to censor or sanitise programme material but rather to facilitate responsible broadcasting.

Thirdly, a number of respondents requested additional rules to be included in the Code. In most cases, the issues raised already fell within the scope of the Code and/or did not come within the scope of the Code or were governed by other legislation i.e. fairness and balance in news reporting and privacy.² As the Commission had previously agreed that the development of the Code would focus on determining the principles and framework against which programme material can be assessed, the Code will not attempt to prescribe precise specific rules for every type of situation.³ The Commission was not satisfied that any convincing arguments had been presented by respondents to alter its approach in this regard.

² These are governed by Section 9 of the Radio and Television Act, 1988.

³ The Phase 1 consultation document outlines the Commission's views in this regard. This document is available on the Commission's website, www.bci.ie or from the Commission's office on request.

Fourthly, there was a trend amongst respondents to the proposals in the consultation document to consider the protection offered by the specific principles and rules proposed in isolation rather than in the wider context in which they will operate and against which programme material will be assessed. For example, a number of responses on the principle of *Protection for Minors* did not seem to take into consideration the protection offered by other rules in relation to specific types of programme material e.g. violence or the rules pertaining to children’s programmes. A single rule or principle, taken in isolation, may not provide adequate protection. However, programme material will be assessed in whole and with reference to the contextual factors, the principles and relevant rules.⁴

Finally, some respondents commented on the language used in the consultation document. Words such as *offence, violent content, due care, appropriateness, justification, public interest, and editorial justification*, among others, were considered ambiguous by respondents and in their view, open to wide interpretation. Definitions for these words were requested by these respondents with a view to eliminating this ambiguity. It is the Commission’s view that definitions would be unnecessarily restrictive since these concepts are necessarily fluid and influenced by contextual factors such as time of day, audience profile, etc. In addition, definitions would also be difficult to develop in a manner which would be generally acceptable and flexible enough to accommodate interpretation over time. It is intended that the words used in the Code should be given their ordinary meaning and/or as commonly understood in a broadcasting context. It may be noted that language of a similar nature is in common usage in codes of standards in operation in other jurisdictions.

2. Content Principles⁵

2.1 Introduction

Four principles were proposed in the consultation document as follows: -

- General Community Standards
- Due Care
- Protection for Minors
- Assessment

These principles were proposed as the framework within which programme material can be assessed. Respondents to the consultation document were asked for their views on the proposed principle. Each of these principles is now discussed in turn.

⁴ The proposed principle of Assessment states: - “*Programme material will be assessed in whole and in context against the principles and rules contained in the code. The principles are indivisible, that is, all programme material must conform to all principles.*”

⁵ The principles are detailed on pages 13-20 of the Phase 2 consultation document.

2.2 General Community Standards

This principle is intended to outline to the public and broadcasters alike the basic requirement that programme material must adhere to, namely, it should not offend against commonly held standards in contemporary Irish society.

2.2.1 Issues Arising

A range of views were expressed by respondents regarding this principle. The majority of respondents broadly favoured the principle. Support in some instances was qualified and reflected a concern that a requirement to avoid offending *community standards* could stifle programme creativity. In this regard, a request to amend the principle by introducing a requirement on broadcasters to prohibit ‘unwarranted’ or ‘gratuitous’ offence, rather than ‘offence’ in general was not approved. The Commission is satisfied that the inclusion of the contextual factors in the Code under the principle of *Assessment* will adequately address concerns regarding programme creativity by providing broadcasters the freedom to broadcast creative and challenging programming for suitable audiences.

A request that the BCI would independently monitor community standards in contemporary Irish society was approved. The Commission agreed that research which would track changes in community standards on an ongoing basis will be beneficial to the public and broadcasters alike.

Requests to develop the Code in a manner which would promote higher moral standards for television and radio were not approved. While these respondents were critical of a Code setting as a minimum standard what they viewed as the low quality of contemporary Irish standards, it was the view of the Commission that the promotion of ‘positive’ or ‘moral’ standards does not come within the remit of the Commission or the scope of the Code.

2.2.3 Outcomes

- In light of these responses, the Commission is satisfied that the proposals under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.
- In addition, in light of concerns expressed, the Commission has agreed to conduct ongoing research in this area. This research will enable the public, the Commission, the Broadcasting Complaints Commission and broadcasters to regularly update their understanding of what constitutes commonly held standards in Irish society.

2.3 Due Care

The principle of Due Care is intended to recognise the potential for a person to identify with the programme material they are listening to or watching because of their own personal circumstances and history.

2.3.1 Issues Arising

The majority of respondents favoured this principle, albeit with some reservations. A number of respondents argued that the wording contained in the first section of the proposed principle entailed a tacit acceptance that ‘offence’ and ‘harm’ are unavoidable aspects of Irish radio and television. The first section of this principle states – “*Broadcasters must take all reasonable measures to ensure that viewers and listeners...are protected from undue offence and harm.*” They requested a rewording of this principle in order to require broadcasters to avoid broadcasts of all harmful and offensive programme material. It was the view of the Commission that the nature of, and range of content on radio and television service as well as the variety of personal tastes amongst audiences, makes the complete elimination of offence impractical. Consequently, the Commission did not approve the request to amend the proposed principle by introducing a requirement on broadcasters to eliminate offence.

However, while the Commission is satisfied that an obligation to avoid ‘*undue offence*’ is appropriate, it acknowledged that the wording as proposed could be read to imply broadcasts of harmful programme material were also unavoidable. As a result, it has decided to reword this principle in order to clarify the requirement on broadcasters to avoid ‘*harm*’ in all instances.

2.3.2 Outcomes

- In order to clarify aspects of the proposed wording under this principle, the Commission has agreed to a rewording in order to better distinguish between the stated obligation on broadcasters to protect the audience from ‘*undue offence*’ and the obligation to protect them from all ‘*harm*’.
- The Commission was satisfied that all other aspects of the proposals under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

2.4 Protection for Minors

This principle is intended to offer additional protection to minors (those under 18 years of age) with regard to programme material broadcast on Irish television and radio.

2.4.1 Issues Arising

There was broad support for this principle as proposed. A proposal to extend the protection afforded to minors to include all citizens was not approved by the Commission. This principle is intended to give specific protection to minors and this approach reflects established practice in Irish and European jurisdictions.⁶ The Commission was satisfied that the Code in its totality provides sufficient protection for all citizens and consequently no amendment to this principle was considered necessary.

2.4.2 Outcomes

- As there were no substantial arguments for amending or removing the principle as proposed, the Commission considered the inclusion of the proposals under this heading appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

2.5 Assessment

This principle is intended to provide the framework for the assessment of compliance by broadcasters with the *BCI Code of Programme Standards*.

2.5.1 Issues Arising

Proposals under this principle received broad support. Respondents criticising the proposal argued that the proposed contextual factors applied to be used when assessing programme material, would provide insufficient protection. The contextual factors reflect national and international practice in this area and their inclusion in the Code received substantial support from the public and broadcasters alike during Phase 1 of the consultation process. The Commission is satisfied that the use of the contextual factors are appropriate in view of the broad support received for their inclusion and in the absence of any substantive alternative assessment proposals from respondents to the Phase 2 consultation document.

A degree of uncertainty about the manner in which this principle would be put into practice was, however, evident from some responses. In particular, it was evident that some respondents viewed the proposals in the consultation document in isolation rather in the context of the assessment process proposed under this principle.

⁶ For example, this approach is reflected in the TWF Directive, Section 19 of the Broadcasting Act and in the *Ministerial Advertising Code*. It is also reflected in the Department of Health and Children's *Voluntary Code of Practice for Alcohol Advertising*

In light of this, the Commission has agreed to clarify the assessment process in the draft Code and to restructure the principle of *Assessment* by way of minor amendments.

2.5.2 Outcomes

- In order to ensure complete clarity regarding the manner in which compliance with the Code will be assessed, the introduction of the draft Code will contain a more discursive explanation of the assessment process, in particular highlighting the roles of the BCC and the BCI.
- The principle of Assessment will be restructured to emphasise separately the assessment process and the role of the contextual factors. This restructuring will not entail any change to the substance of the principle as proposed in the Phase 2 consultation document.
- The proposals under this principle, including the modified structure, will be included in the draft *BCI Code of Programme Standards*.

3. Content Rules⁷

3.1 Introduction

The Phase 2 consultation document contained a number of proposed rules in relation to eight programme areas agreed by the Commission during the first phase of consultation as those that would come within the scope of the *BCI Code of Programme Standards*. The rules proposed for each programme area were intended to set the standards required of programme material of this nature. The eight areas are as follows:-

- i) Violent programme material
- ii) Sexual conduct
- iii) Coarse language
- iv) Portrayal of persons and groups in society
- v) Factual Programming (including news and current affairs)
- vi) Children's programming
- vii) Portrayal of drugs, alcohol and solvent abuse
- viii) Imitative behaviour

The Phase 2 consultation document invited views on the proposed rules. Issues arising from the consultation responses and the decisions made by the Commission in respect of these eight programme areas are now outlined.

⁷ See pages 15-20 of the consultation document.

3.2 Violent Programme Material⁸

Three rules were proposed under this heading. These rules are intended to offer general protection in relation to all violent programme material and additional protection in relation to four specific types of violence. These are: graphic violence; sexual violence; self-harm, and; violence against children.

3.2.1 Issues Arising

Respondents' views on these proposals were mixed. Some offered broad support, others qualified support and some considered the proposals inadequate and in need of strengthening. A request by some respondents to include more detailed and specific rules under this heading and requests for blanket prohibitions on either all violent content or certain types were not approved. It was the Commission's view that the Code already addressed these concerns. In addition, some suggestions of this nature were considered contrary to the agreed *Objectives of the Code*.

A proposal to modify the proposals under Rule 3, which pertains to sexual violence, to include the four types of violence specified in Rule 2 (graphic violence, sexual violence, self-harm and violence against children), was not approved by the Commission. The Commission is satisfied that the protection provided by Rule 1, the additional protection provided by Rules 2 and 3, as well as that provided by the principle of *Due Care* are sufficient to provide a balance between the concerns regarding this type of programme material and the rights of viewers and listeners to consume programme material of this nature.

3.2.2 Outcome

- The Commission was satisfied that the rules proposed under this heading are appropriate and suitable for inclusion in the *BCI Code of Programme Standards*.

3.3 Sexual Conduct⁹

Four rules were proposed under this heading. These rules are intended to offer general protection in relation to all programme material containing sexual conduct and additional protection in relation to detailed scenes of a sexual nature, depictions of relationships between under-aged young people and an adult and child, and the inclusion of nudity in programme material.

⁸ The rules proposed under this heading were detailed on page 15 of the Phase 2 consultation document.

⁹ The rules proposed under this heading were detailed on page 16 of the Phase 2 consultation document.

3.3.1 Issues Arising

Respondents' views on these proposals were mixed. Some offered broad support, others qualified support and some considered the proposals inadequate and in need of strengthening. Requests by some respondents to include more detailed and specific rules under this heading and requests for blanket prohibitions on either all sexual content or certain types such as homosexuality were not approved. Requests to introduce rules which would promote sexual conduct within marriage, chastity and abstinence were not approved. In both instance, the proposals were considered by the Commission to be contrary to the agreed *Objectives of the Code*.

A request to prohibit portrayals of '*sexual relationships between...an adult and a child*', as detailed in Rule 3, was not approved by the Commission. The intent of the rule is to provide guidance to broadcasters in this area. It is also intended to set out their responsibilities in this regard, namely, a requirement that such material should not encourage these activities, or portray them as legal. The Commission was satisfied that portrayals of this nature are legitimate themes to explore in programming once they are handled responsibly. It was also satisfied that the general rules pertaining to sexual conduct, the principles of *Due Care* and *Protection for Minors* and rules under the heading of *Children's Programmes* would provide sufficient protection to viewers while also recognising the diversity of views on this issue.

3.3.2 Outcomes

- Bearing in mind these concerns, Rule 3 under this heading will be re-worded to clearly emphasise the requirement that programme material of this nature does not encourage or legitimise these types of relationships. The substance of the rule will remain unaltered and the rule will be included in the draft *BCI Code of Programme Standards*.
- The Commission is satisfied that the remaining rules proposed under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

3.4 Coarse Language¹⁰

Three rules were proposed under this heading. The rules are intended to provide general protection in relation to this type of programme material. Additional protection is offered with respect to the use of coarse language during live programming and the use of sacred or holy names.

¹⁰ The rules proposed under this heading were included on page 16 of the Phase 2 consultation document.

3.4.1 Issues Arising

Again, respondents' views on these proposals were mixed. Some offered broad support for the proposals under this heading while others offered qualified support. Requests for more detailed rules under this heading and requests to introduce a rule prohibiting coarse language in all programming, including live programming, were not approved. It was the Commission's view that a workable prohibition on the use of coarse language during live programming is not practical. This rule had been drafted in order to reflect this reality while at the same time acknowledging the offence that can be caused by instances of 'live' coarse language. The Commission also took the view that an outright prohibition on coarse language during all programme material would also be contrary to the agreed *Objectives of the Code*.

A request to interpret the rules under this heading with reference to the top ten swear words identified by the national attitudinal survey undertaken during Phase 2 of the consultation process was not approved.¹¹ It was the view of the Commission that a list of this nature would date quickly given the likely shift in the status of swear words over time.

Issues raised in relation to the use of coarse language in specific types of programme material such as music and Irish language programmes were considered by the Commission to relate to matters of 'context'. The Commission is satisfied that the proposed principle of *Assessment* will address these concerns in practice.

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.

Rule 3 was included in the consultation document in order to highlight the specific type of offence that may be caused by the careless use of sacred or holy names during programme material. The Commission is satisfied that the protection offered by Rule 1 and Rule 2 under this heading and Rule 4 under the heading, *Portrayals of Persons and Groups in Society*, will provide sufficient protection for viewers and listeners against the arbitrary use of these words, while also recognising the diversity of views on this issue.

¹¹ Details of this consultation process are available on the Commission's website www.bci.ie

3.4.2 Outcomes

- The Commission is satisfied that the rules proposed under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

3.5 Portrayal of Persons and Groups in Society¹²

Four rules were proposed under this heading. The rules are intended to outline standards required of broadcasters when it comes to portrayals of persons and groups in society. The rules proposed prohibit programme material of a discriminatory nature in general and in particular discriminatory portrayals concerning religious belief and people with a disability.

3.5.1 Issues Arising

The proposals under this heading received broad, if qualified, support. A request by some respondents to expand Rule 4 to include religious symbols, images and practices was not approved. It was the Commission's view that causes of offence in this regard arise from religious views and beliefs attached to these symbols, images and practices and, consequently, the rule as proposed should offer sufficient protection.

A request to expand the rules prohibiting the stereotyping of people with a disability and unwarranted correlations between criminal activity and mental health to all members of society was not approved. These rules are intended to provide special protection to particular members of Irish society and the Commission is satisfied that the general rules requiring appropriate, justifiable and non-discriminatory portrayals of people in society, will provide sufficient protection for members of Irish society in general.

A number of issues arose in relation to Rules 1 and 2 proposed under this heading. These are now briefly outlined.

a. Rule 1

Rule 1 as proposed in the consultation document prohibits programme material which supports or condones discrimination against persons and groups in society based on the nine grounds set out in equality legislation i.e. *age, gender, marital or family status, membership of the Traveller Community, sexual orientation, disability, race or religion*.

While the majority of respondents to the consultation favoured this rule, a request to amend the proposals to include all members of

¹² The rules proposed under this heading were detailed on page 17 of the Phase 2 consultation document.

society was considered by the Commission to have merit. Consequently, the rules under this heading will be amended to reflect this decision.

b. Rule 2

Rule 2 in the consultation document was developed to provide additional protection to people with an intellectual or physical disability in the context of programme material portraying them. A request to amend this rule in order to ensure that the scope of the rule includes all types of disability, including those related to mental health, was considered by the Commission to be warranted. Consequently, the rules under this heading will be amended to reflect this decision.

3.5.2 Outcomes

- The Commission has decided to expand the scope of Rule 1 so that the requirement on broadcasters to avoid programme material which would support or condone discrimination applies to all members of society. The rule will continue to place a special emphasis on the avoidance of material which would support or condone discrimination on the nine grounds detailed in legislation.

The Commission also decided to divide this rule into two separate rules. The first rule will emphasise the general requirement to ensure appropriate and justifiable portrayals of persons and groups in society. The second rule will emphasise the need to avoid material which supports or condones discriminatory portrayals.

- The Commission has decided to expand the scope of Rule 2 to include all types of disability, including those related to mental health.
- The Commission is satisfied that the rules under this section, as amended, are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

3.6 Factual Programming – News, Current Affairs and Documentaries¹³

Three rules were proposed under this heading. These rules require broadcasters to avoid airing distressing material except when justified editorially or by public interest. In addition, factual programming must not emphasise personal or social characteristics, for example, sexual preference, except when relevant to the programme. Broadcasters must treat the dead with respect when they are featured in factual programming.

¹³ The rules proposed under this heading were detailed on page 18 of the Phase 2 consultation document

3.6.1 Issues Arising

There was broad support for the proposals under this heading from respondents to the consultation document. A range of issues were raised in relation to privacy, fairness and balance in factual programming. As these issues are governed by other legislation, the Commission decided that it was not necessary or appropriate to replicate rules in this regard in the draft *BCI Code of Programme Standards*.

A number of respondents to the consultation document cited examples of what they believed were inappropriate reporting of people in Ireland and the developing world. They noted that proposals in the consultation document did not contain any requirement for broadcasters to treat subjects in factual programming with respect and dignity. Taking into account respondents' concerns in this area and having reviewed the proposals for factual programming detailed in the consultation document, the Commission has decided that the inclusion of an additional rule explicitly dealing with human dignity is warranted.

3.6.2 Outcomes

The draft *BCI Code of Programme Standards* will include a new rule under this heading pertaining to human dignity.

The Commission is satisfied that the three rules proposed in the Phase 2 consultation document are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

3.7 Children's Programming¹⁴

Four rules were proposed under this heading. The rules under this section focus on a range of programme areas including violent programme material, sexual conduct, coarse language and drug and alcohol abuse, among other areas.

3.7.1 Issues Arising

There was broad support for Rules 3 and 4 as proposed and qualified support for Rules 1 and 2 as proposed. A request that the rules under this heading be classified in order to reflect the range of maturity and experience that children of different ages possess was not approved. While the Commission agreed that maturity and experience affect the impact of a programme on a child, it is satisfied that the factors listed under the principle of *Assessment*, as well as the other principles and rules in the Code which pertain to children will provide sufficient protection.

¹⁴ The rules proposed under this heading were detailed on page 18 of the Phase 2 consultation document.

A request that programme material covered by Rule 2 should not be prohibited in children's programming was not approved. This rule permits programme material dealing with drugs, alcohol and solvent abuse. The Commission is satisfied that the general rules under the heading, *Portrayal of Drugs, Alcohol and Solvent Abuse*, the specific rule under *Children's Programme* pertaining to this type of programme material and other rules in the Code pertaining to children will provide an appropriate balance between the need to provide protection and the right of broadcasters to address themes of relevance to minors e.g. drugs misuse.

3.7.2 Outcomes

- The Commission was satisfied that the rules proposed under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

3.8 Portrayal of Drugs, Alcohol and Solvent Abuse¹⁵

Four rules were proposed under this heading. These rules are intended to ensure that programme material of this nature is handled responsibly by broadcasters. The proposed rules require broadcasters to ensure that programming does not encourage or favourably portray the use of illegal drugs or the abuse and misuse of alcohol and solvents by adults and children alike. Particular care is also required when portraying detailed depictions of the techniques used to administer illegal drugs.

3.8.1 Issues Arising

There was strong support for proposals under this heading. A request by a number of respondents to prohibit depictions of techniques for the administration of illegal drugs in programming was not approved. This proposal was considered by the Commission to be contrary to the *Objectives of the Code*. It was also satisfied that the rules under this section will provide an appropriate balance between the need to provide protection and the right of broadcasters to address themes of this nature.

3.8.2 Outcomes

- The Commission was satisfied that the rules proposed under this heading are appropriate and suitable for inclusion in the draft *BCI Code of Programme Standards*.

¹⁵ The rules proposed under this heading were detailed on page 19 of the Phase 2 consultation document.

3.9 Rules Pertaining to Imitative Behaviour¹⁶

One rule was proposed under this heading in order to recognise the role of television and radio as one of a number of factors in society which can affect individual behaviour.

3.9.1 Issue Arising

There was broad support for the rule as proposed. Two amendments to this rule were proposed and the Commission has decided to adopt both with a view to clarifying the applicability of the rule to both radio and television programme material and a requirement to protect both individuals and others from harm.

3.9.2 Outcome

- The Commission has decided to include a rule pertaining to imitative behaviour in the draft *BCI Code of Programme Standards*. This rule will be an amendment to the rule proposed in the Phase 2 consultation document.

4. Audience Information and Guidance¹⁷

4.1 Introduction

The three principle activities of the Phase 1 consultation process indicated broad support for the provision by broadcasters of audience information and guidance. For this reason, a principle requiring broadcasters to provide information and guidance was proposed in the consultation document. The provision of such information is intended to assist audiences to make informed choices about their own media consumption and that of children. It is also intended to assist broadcasters to ensure, as far as possible, that programming is scheduled at appropriate times and for an appropriate audience, in order to minimise offence and avoid harm. Respondents to the consultation document were asked two questions with regard to audience information and guidance namely:

- i) Whether broadcasters should be obliged to provide audience information and guidance to assist viewers and broadcasters?
- ii) If they should, whether the mechanisms to be used be specified by the Commission or left to the discretion of broadcasters?

Issues arising and decisions reached in respect of both questions are now outlined.

¹⁶ The rules proposed under this heading were detailed on page 19 of the Phase 2 consultation document.

¹⁷ See pages 20-22 of the Phase 2 consultation document.

4.2 Obligation to provide audience information and guidance

Respondents were asked whether an obligation to provide audience information and guidance should be obligatory.

4.2.1 Issues Arising

There was almost unanimous support amongst respondents for a requirement on broadcasters to provide mandatory audience information and guidance.

A request that audience information and guidance be provided in an accessible manner for those with a disability, in particular a sensory impairment, was approved by the Commission. The Commission had previously approved a rule in the draft *BCI General Advertising Code* which required on-screen messages during advertisements to be clearly visible, legible and/or audible (depending on the medium i.e. radio or television). In this context, a similar requirement for on-screen audience information and guidance was viewed by the Commission as appropriate in order to ensure a consistency of approach in line with the Commission's regulatory principles. In practice, this will require broadcasters to ensure that such information is provided in an audible manner on radio and in an audible and visual manner on television.

4.2.2 Outcomes

- Based on the broad support for the proposal to require broadcasters to provide audience information and guidance on a mandatory basis, the draft *BCI Code of Programme Standards* will include a principle in this regard.
- The Commission has decided that broadcasters will be required to provide audience information and guidance to viewers in visual and audio formats.

4.3 Mechanisms for audience information and guidance

Respondents were also asked whether the type of mechanism used to provide information and guidance should be left to the discretion of broadcasters. In terms of specific mechanisms that might be used by broadcasters to provide this information and guidance, three were highlighted in the consultation document. They were:

- Prior warnings
- Watershed
- Classification systems

A discretionary approach had been recommended by the Commission in the consultation document based on a number of relevant factors namely, audience type, channel/service type, and resources.

4.3.1 Issues Arising

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. It was argued that allowing broadcasters to decide which type of information and guidance to provide would result in the arbitrary provision of information across a range of services. These respondents did not believe the factors cited by the Commission in the consultation document provided sufficient reason not to specify the type of audience information and guidance.¹⁸ A uniform approach, it was suggested, would provide consistent information across all services enabling viewers and listeners to make informed choices about the programming consumed by them, regardless of the type of service. With regard to the mechanism(s) to be applied, views expressed by respondents were mixed and support was expressed for all three mechanisms outlined in the consultation document.

Having considered the submissions received in this regard, the Commission was not convinced that the arguments that advocated prescribing to broadcasters the type of information mechanism(s) to be provided outweighed the benefits of a discretionary approach. It was the Commission's view that a discretionary approach is more appropriate in the context of the *Objectives of the Code*, since a one-size-fits-all approach would not accommodate the diversity of tastes, expectations and interests of Irish viewers and listeners. Furthermore, it was the Commission's view that a discretionary approach would recognise the differences between broadcasters in terms of items such as remit and resources. In practice, this approach will require broadcasters to use at least one of the three mechanisms identified above but the choice of which one to use or the use of more than one mechanism would be left to the broadcaster.

4.3.2 Outcome

- The draft *BCI Code of Programme Standards* will place a mandatory requirement on broadcasters to provide audience information and guidance on their services. At least one of the following three mechanisms must be provided:
 - i) Prior warnings
 - ii) Watershed
 - iii) Classification of some or all programmes

¹⁸ Audience/channel/service type and resources.