



Broadcasting Commission of Ireland
Coimisiún Craolacháin na hÉireann

Taste and Decency

a review of
national and international practice

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Preface

Under the terms of the *Broadcasting Act, 2001*, the Broadcasting Commission of Ireland (BCI) is required to draw up a range of codes. Among the codes specified, one is to deal with issues of taste and decency in broadcasting.¹ This report starts a process which will culminate in the production of a code to govern such matters. The approach taken is quite expansive. It considers all matters deemed relevant, the aim being to give as true a representation as possible of the area which is ‘taste and decency’. The report is divided into six parts which can be described as follows.

Part One is comprised of two chapters. Chapter 1 provides an overview of all relevant legislation and legal documents in effect at both national and European level. This establishes the legislative context in which the forthcoming code will be framed. It identifies the scope of the code and to whom it will apply. Chapter 2 introduces meanings ascribed to the seemingly elusive terms of ‘taste’ and ‘decency’ and highlights the absence of distinct and universally accepted definitions.

Factors affecting the assessment of material are identified in *Part Two*. The approach taken refers to both internal and external factors. Primarily, it looks at factors which influence individual receipt and interpretation of programme matter. A theoretical overview is provided of why certain material might cause offence to some while being deemed benign by others. Consideration is also given to conventions and devices which can keep potential offensive material under control. Producing a code to deal with matters of taste and decency is often considered inadequate if pursued alone. In many countries considered, the code is used alongside a designated watershed. In addition, a classification system is used to provide on-screen information, or audio on radio, to notify consumers of the nature of a given programme. This allows viewers and listeners to make informed choices. It is believed that such a three pronged approach is essential if offence and harm are to be kept to a minimum. Consequently, this study pays attention to the watershed and classification systems – both theory and practice.

¹ The BCI coordinates principal activities unfolding in Irish radio and television. Legislation outlining its functions, and thus underpinning its work, is the *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*. Relevant sections in this regard are 19.1(a), 19.4, 19.6, 19.15, 19.16 and 24.2(d) of the *Broadcasting Act, 2001*.

The guiding line throughout this study is to identify key areas which can fall within the ambit of a code on taste and decency, to establish why these have the potential to offend and to outline approaches taken in a variety of jurisdictions. *Part Three* identifies the main areas which have been determined through research and a comparative analysis of sample codes. These are as follows:

- Respect and dignity;
- Coarse language;
- Violence;
- Sex;
- News, current affairs and documentaries;
- Drugs, alcohol and imitative behaviour;
- Children and children's programming.

Of the areas specified, more emphasis has been placed on the categories of language, violence and sex. Not only does this reflect emphases expressed in Section 19 of the *Broadcasting Act, 2001*, it reflects the emphasis many people place on offensive material viewed on television. Consistently, these three categories attract the majority of complaints albeit alternating in importance/severity from year to year; something dictated by the material on offer in any twelve month period. In the Irish case, 'privacy' is not included. This falls under section 24.2(c) of the *Broadcasting Act, 2001*.²

In *Part Four*, attention turns to Ireland. Here the reader is introduced to a demographic snapshot of Ireland at the time of writing and details are provided vis-à-vis age, location, religious and cultural characteristics of Irish people today. In so doing, characteristics which can shape and reshape how Irish people receive and interpret material are outlined. Chapter 15 looks more specifically at the broadcasting landscape that is Ireland. In the absence of a formal code, it outlines the experience of broadcasters and regulators in this respect. Examining a sample of broadcasters, television and radio, national and local, it identifies the different approaches taken towards potentially offensive material and complaints when generated. The Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC) are considered regarding their roles in dealing with matters of 'taste' and 'decency'.

After considering these areas, the focus narrows. *Part Five* looks at how governments and/or regulators elsewhere have approached matters of 'taste' and 'decency'. A comparative analysis was carried out on a sample of existing codes. Here the main areas specified and the details contained therein are presented for consideration.

All threads featured in this study are drawn together and conclusions made as appropriate. *Part Six*, therefore, provides concluding remarks to this study.

² Section 24.2(c) states that 'a complaint that on an occasion specified in the complaint there was an encroachment by a broadcaster contrary to section 18(1B) (inserted by the Act of 1976) of the Act of 1960 or paragraph (e) of section 9(1) of the Act of 1988 (including that section or paragraph as applied by this Act.'

If programme-makers bear in mind that the programmes they make can be heard in every home in the country, that they cannot know who is listening or watching, that they cannot know if there are children in their audience, then it is clear that obscenity in any form is unacceptable.¹

¹ RTÉ (2002), *Programme Makers' Guidelines*, n.pag.

Part One

Legislative basis and other considerations

Part One

Legislative basis and other considerations

Part One identifies the statutory basis and conceptual framework for the present study on issues of taste and decency. It is comprised of two chapters which can be introduced as follows.

Section 19 of the *Broadcasting Act, 2001* requires the Broadcasting Commission of Ireland (BCI) to draw up rules to affect issues of taste and decency. It is not the only legislation underpinning the development of such rules. While considering the 2001 Act, Chapter 1 provides an overview of other relevant and related legislation. In addition, it identifies the scope and applicability of rules once devised.

Chapter 2 considers the concepts of ‘taste’ and ‘decency’ and attempts to draw out working definitions for what are often considered elusive terms. It identifies broad principles which may be applied in the assessment of material that might be classed as offending against standards of taste and decency.

1. Legislative basis

1.1. Introduction

Section 19 of the *Broadcasting Act, 2001* directs the Broadcasting Commission of Ireland (BCI) to draw up a code to deal with issues of taste and decency in broadcasting. While being the principal statutory basis, it is not the only legislative influence. This chapter outlines relevant legislation in this regard. It identifies the scope of the proposed code on taste and decency and of its application. And finally, it addresses the question: who is to be protected by such a code?

1.2. Legislative basis

National legislation coupled with European directives combine to affect issues of taste and decency in broadcasting. Here the principal pieces are identified and comments made as appropriate.

1.2.1. National legislation

The overview of national legislation is grouped into two categories. Primarily, relevant sections of the Broadcasting Acts are highlighted. And secondly, other key legislation and legal documents are considered thereafter.

1.2.1.1. Broadcasting Acts

Emphasising issues of taste and decency is not a new departure. Restrictions appear in the *Radio and Television Act, 1988* where Section 9.1(d) states that each independent broadcaster must ensure that

anything which may reasonably be regarded as offending against good taste or decency, or as being likely to promote, or incite to, crime or as tending to undermine the authority of the State, is not broadcast by him.

The *Broadcasting Act, 2001* requires the BCI to formulate a code which will govern matters of taste and decency. More specifically, the 2001 Act states that

19. – (1) The Commission shall, upon being directed by the Minister to do so and in accordance with the provisions of this section, prepare –

- (a) a code specifying standards to be complied with, and rules and practices to be observed, in respect of taste and decency of programme material, the subject of a broadcasting service or sound broadcasting service, and, in particular, in respect of the portrayal of violence and sexual conduct in such material

Section 24.2(b) of the *Broadcasting Act, 2001* provides the basis by which complaints regarding issues of taste and decency, among others, can be processed. It states that

a complaint that in broadcasting a programme specified in the complaint, a broadcaster either did not comply with or more of the said requirements or was in breach of the prohibition contained in section 18(1A) (inserted by the Act of 1976) of the Act of 1960 or, as the case may be, in paragraph (d) of section 9(1) of the Act of 1988 (including that section or paragraph as applied by this Act.

1.2.1.2. Other key legislation and legal documents

Broadcasting legislation is not the sole statutory basis for the development of a code on taste and decency. Other statutes and legal documents are relevant, influential and applicable in this respect.¹ The principal ones highlighted hereunder are grouped according to theme: (i) blasphemy and/or sedition; (ii) incitement to hatred; and (iii) equality.

(i) Blasphemy and/or sedition

References to ‘blasphemy’ and/or ‘sedition’ appear in *Bunreacht na hÉireann* and the *Defamation Act, 1961*. The relevant article and sections from these are outlined hereunder.

Bunreacht na hÉireann

- 40.6.1.** The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.

Defamation Act, 1961:

- 13.-(1)** Every person who composes, prints or publishes any blasphemous or obscene libel shall, on conviction thereof on indictment, be liable to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or to both fine and imprisonment or to penal servitude for a term not exceeding seven years.²

¹ See Appendix I for related legislation and legal documents.

² See Appendix II for the complete version of Section 13 of the *Defamation Act, 1961*.

Sections 14 and 15 of the *Defamation Act, 1961* extend this clause to affect broadcasting.³ Section 14 outlines the accepted definitions of broadcasting and consequently, 14.2 states ‘Any reference in this Part to words shall be construed as including a reference to visual images, gestures and other methods of signifying meaning.’ Furthermore, Section 15 states that ‘For the purposes of the law of libel and slander, the broadcasting of words by means of wireless telegraphy shall be treated as publication in permanent form.’

There is no clean definition of blasphemy in either Bunreacht na hÉireann or in legislation ‘although Section 7.2. of the *Censorship of Films Act 1923* and the Section 13(1) of the *Defamation Act 1961* assume its existence without defining it.’^{4 5} Originally, blasphemy was accepted as meaning any criticism of the Church, Christian doctrine or a denial of Christian doctrine. This has been expanded in line with societal change and as a result, ‘The underlying concerns of blasphemy appear in the modern context to have been largely replaced by concerns to protect people from religious hatred.’⁶ ‘Blasphemy’ does not feature in broadcasting legislation.

Sedition refers to material which is critical of Government or institutions of State. Section 10 of the *Wireless Telegraphy Act, 1926* authorised ministerial control in times of national emergency. Section 3.1.(a) of the *Broadcasting Authority (Amendment) Act, 1976* prohibits the broadcast of matter likely to undermine the authority of the State.⁷⁸

The *Broadcasting Authority Act, 1960* is also relevant. Section 18(1A) states that

The Authority is hereby prohibited from including in any of its broadcasts or in any matter referred to in paragraph (c) of subsection (1) of this section anything which may reasonably be regarded as being likely to promote, or incite to, crime or as tending to undermine the authority of the State.

The link between the concepts ‘blasphemy’ and ‘sedition’ is age old. Marie McGonagle explains the connection when she says ‘...blasphemy at one time could be equated with sedition, when the Church was regarded as an institution of the State, which was not to be subjected to criticism.’⁹

³ See Appendix II for the complete version of Section 14 and 15 of the *Defamation Act, 1961*.

⁴ McGonagle, M. (2003), *Media Law*, Dublin: Round Hall, 300.

⁵ Section 7.2. of the *Censorship of Films Act, 1923* states that ‘Whenever any such application as is mentioned in the fore-going sub-section is made to the Official Censor, he shall certify in the prescribed manner that the picture to which the application relates is fit for exhibition in public, unless he is of opinion that such picture or some part thereof is unfit for general exhibition in public by reason of its being indecent, obscene or blasphemous or because the exhibition thereof in public would tend to inculcate principles contrary to public morality or would be otherwise subversive of public morality.’

⁶ McGonagle, 307.

⁷ McGonagle, 343.

⁸ This was strengthened by Section 31 of that Act which prohibited interviews or coverage with members or representatives of proscribed organisations in Ireland. The list was updated on an annual basis by Ministerial Order. It was not renewed in 1994 and was subsequently repealed by the *Broadcasting Act, 2001*.

⁹ McGonagle, 299.

(ii) *Incitement to hatred*

Section 3 of the *Prohibition of Incitement to Hatred Act, 1989* deals with ‘Broadcasts likely to stir up hatred.’ More specifically, it states that

- 3.-(1) If an item involving threatening, abusive or insulting visual images or sounds is broadcast, each of the persons mentioned in *subsection (2)* is guilty of an offence if he intends thereby to stir up hatred or, having regard to all the circumstances, hatred is likely to be stirred up thereby.
- (2) The persons referred to in *subsection (1)* are:
- (a) the person providing the broadcasting service concerned,
 - (b) any person by whom the item concerned is produced or directed, and
 - (c) any person whose words or behaviour in the item concerned are threatening, abusive or insulting.¹⁰

(iii) *Equality*

The *Equal Status Act, 2000* outlines what are considered to be grounds for discrimination.¹¹ These identify specific criteria against which potential discrimination may be assessed. The principal areas have been set out as follows:

- 3.-(2) As between any two persons, the discriminatory grounds (and the descriptions of those grounds for the purposes of this Act) are:
- (a) that one is male and the other is female (the “gender ground”),
 - (b) that they are of different marital status (the “marital status ground”),
 - (c) that one has family status and the other does not or that one has a different family status from the other (the “family status ground”),
 - (d) that they are of different sexual orientation (the “sexual orientation ground”),
 - (e) that one has a different religious belief from the other, or that one has a religious belief and the other has not (the “religion ground”),
 - (f) subject to *subsection (3)*, that they are of different ages (the “age ground”),
 - (g) that one is a person with a disability and the other either is not or is a person with a different disability (the “disability ground”),
 - (h) that they are of different race, colour, nationality or ethnic or national origins (the “ground of race”),
 - (i) that one is a member of the Traveller community and the other is not (the “Traveller community ground”).

1.2.2. *European legislation*

Issues of taste and decency feature in the directives of the European Union. In 1989, Article 22 of the *Television Without Frontiers* stated that

¹⁰ See Appendix III for the complete version of Section 3 of the *Prohibition of Incitement to Hatred Act, 1989*.

¹¹ See Appendix IV for the complete version of Section 3 of the *Equality Status Act, 2000*.

Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence. This provision shall extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts. ...Member States shall also ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.¹²

An amendment to Article 22 appeared in the *Television Without Frontiers* of 1997. This states that

...when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout the duration.^{13 14}

The *European Communities (Television Broadcasting) Regulations, 1999* also refers to such themes. More particularly, it states that

- 8.(1) Subject to paragraph (2) of this Regulation, a broadcaster shall not broadcast programmes that might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence.
- (2) Programmes (not being those that involve pornography or gratuitous violence) which might impair the physical mental or moral development of minors may only be shown-
 - (a) where the broadcaster ensures, by selecting the time of the broadcast or by any technical means, that minors would not normally be expected to hear or see such broadcasts, and
 - (b) if broadcast in unencoded form, where the broadcaster ensures that such programmes are preceded by an acoustic warning or are

¹² European Parliament Council (1989), *Council Directive (89/552/EEC) of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in member States concerning the pursuit of television broadcasting activities.*

¹³ European Parliament Council (1997), *Council Directive (97/36/EC) of 19 June 1997 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in member States concerning the pursuit of television broadcasting activities.*

¹⁴ See Appendix IV for further details from the *Television Without Frontiers* directive, 1997.

identified by the presence of a visual symbol throughout their duration.¹⁵

There are currently no plans to revise, add or expand the *Television Without Frontiers* directive vis-à-vis matters of taste and decency. Indeed there is resistance to harmonising the approach across member States in this regard. Determining and regulating such matters at national level is seen as preferable. The inclusion of the words ‘taste and decency’ has also been resisted as the demarcation of such concepts is often seen as blurred. Proposals have been made, however, to increase emphasis on the protection of minors and human dignity on all audiovisual and information services.¹⁶ The principal points relevant to the present study can be summarised as follows:

- ‘The changing media landscape, resulting from new technologies and media innovation make it necessary to teach children, and also parents, to use the media effectively.’
- ‘...it is suggested that media literacy be included among the subjects covered by Recommendation 98/560/EC.’
- ‘The Commission encourages cooperation and the sharing of experience and good practices between (self)regulatory bodies, which deal with the rating or classification of audiovisual content, with a view to enable all viewers, but especially parents and teachers, to assess the content of programmes.’
- ‘It is appropriate to seek conciliation between the principle of protection of human dignity and free speech through the adoption by the Member States of a cross-media approach explicitly aimed at encouraging the industry to avoid and to combat any type of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media.’
- Industries and parties concerned are advised to ‘develop positive measures for the benefit of minors, including initiatives to facilitate their wider access to audiovisual and information services, while avoiding potentially harmful content, including a ‘bottom-up’ harmonisation through cooperation between self-regulatory and co regulatory bodies in the Member States, and through the exchange of best practices concerning such issues as a system of common, descriptive symbols which would help viewers to assess the content or programmes;
- and to ‘develop effective measures to avoid discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media, and to combat such discrimination and promote a diversified and realistic picture of the skills and potential of women and men in society.’

Many of these points feature in codes reviewed or themes presented in this report. It must be remembered that the points listed above emanate from a proposed recommendation and therefore have no current effect.

¹⁵ *European Communities (Television Broadcasting) Regulations, 1999* (S.I. No. 313 of 1999).

¹⁶ Commission of the European Communities (2004), Proposal for a *Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry*, COM (2004) 341 final.

Many legislative elements that will affect a code on taste and decency are already in place. From this overview, one sees the onus is on broadcasters not to transmit material which might encourage crime; cause insult on religious grounds; undermine the authority of the State; carry threatening, abusive or insulting visual images or sounds; pornography or gratuitous violence; or incite hatred on the bases of gender, age, race, religion or nationality. Material broadcast should not impair physical, mental or moral development of minors. The use of a visual symbol and technical measures is identified. Adherence to scheduling restrictions appropriate to audience profile are also referred to. All such aspects will be examined and developed in the chapters which follow.

1.3. Difficulty with terminology

The dual concepts of ‘taste’ and ‘decency’ are difficult to identify. Inherently subjective, they have as their bases, attitudes and opinions rather than concrete fact. ‘Taste’ refers to personal preference while ‘decency’ refers to personal perspective and judgements. What might be to one person’s taste might not be to another and what might be deemed decent by one group might be considered indecent by another. Attitudes and opinions are but shifting sands, liable to change and in need of constant review. Broadcasters must be sensitive to such change and any code produced must be flexible enough to cope with subsequent adaptations.

The boundaries are not clear-cut. Incidents considered issues of ‘taste and decency’ are generally those which cause offence or harm to listeners and/or viewers. At this early stage, therefore, it is suggested that the rather indistinct term ‘taste and decency’ be replaced by something more relevant and instantly recognisable – for example, ‘offence and harm’ or ‘matters of offence’.¹⁷

1.4. Scope of the code

Section 19.1(a) of the *Broadcasting Act, 2001* states that the code will affect ‘programme content’ and will not deal with advertising.¹⁸ It will provide clear steps to be followed by each broadcaster to ensure that proper standards of broadcasting are respected and maintained.

While the 2001 Act places emphasis on matters of a violent and/or sexual nature, it does not specify what other elements are to be targeted. Consequently, a broad approach has been adopted in this study – identifying and detailing other areas which might be included. Such information has been gleaned from a comparative analysis of codes operating in other jurisdictions.

¹⁷ Ofcom in the United Kingdom is also opting for such an approach. For further information, see Ofcom news release for 14th July 2004.

¹⁸ The 2001 Act also requires the BCI to draw up a code for General Advertising standards, where issues of taste and decency in commercial messages will be dealt with.

1.5. Who is to be protected?

While European legislation refers specifically to the protection of minors from offensive material, Irish legislation is not specific in focus. Such a general and rounded approach is laudable given that taste and decency affects all offended or harmed by programming on broadcast media. It is not, therefore, a child based issue exclusively. One should note, for example, that while the watershed is generally regarded as a method to guard children from unsuitable programming, it is also used by older people to protect them from what is potentially offensive. This is an important consideration because, as Chapter 12 will show, those in the 65+ category are the heaviest consumers of broadcast media, watching double the hours children watch on a daily basis.

Such a general approach has been reflected in the style of this present report where attention is given to subject matter that can offend rather than focusing on groups which might be offended. This is not to ignore the fact that additional features are needed for the protection of minors. While general standards will be applied to children's programming, attention is also paid to issues particular to children. Such is the focus of Chapter 12.

1.6. Scope of application

Section 2(1) of the *Broadcasting Act, 2001* defines a broadcaster as a person 'who supplies a compilation of programme material for the purpose of its being transmitted or relayed as a broadcasting service (whether that person transmits or relays that material as such a service or not).' Drawing on this, the practical application of the code dealing with issues of taste and decency will affect home-based broadcast media exclusively. It will apply equally to public and independent broadcasters in Ireland. In addition, it will apply to those who make use of a frequency or satellite capacity or up-link in Ireland. More specifically, it will apply to RTÉ radio and television services, TG4, to those television and radio stations licensed under the *Radio and Television Act, 1988* (including the national broadcasters, TV3 and Today FM) as well as content contractors licensed by the BCI under the *Broadcasting Act, 2001*. It will not refer, however, to those services received from abroad – for example, BBC, Channel 4, Sky, MTV, Playboy TV, Television X and Extreme Sports among others – which remain subject to the rules and regulations of their country of origin.

1.7. Concluding remarks

Section 19 of the *Broadcasting Act, 2001* provides the principal basis for the development of this code. Progress, however, will be shaped by other influences as appropriate. When produced, the code should confine incidents of offence and harm and identify succinctly parameters for broadcasters to adhere to.

By emphasising legislative aspects, one might get the impression that the code when produced will be overly legalistic and dogmatic in respects. The comparative analysis carried out on the codes of other countries has revealed that this is not true. Experience elsewhere has shown that it does not inhibit freedom of expression nor is the production of such regulations censorship. Existing codes do not aim to ban certain types of language or images that are deemed to be a legitimate part of dramatic or literary treatments nor do they aim to exclude references from legitimate reportage,

debate or documentaries. Codes operating elsewhere give guidance to broadcasters and viewers alike. In this context, a code aims to inform viewer choice rather than to censor material. At their very core, codes analysed are a means to foster responsible broadcasting, broadcasting that educates, provokes discussion and entertains where unnecessary offence and harm are kept to a minimum.

2. ‘Taste’ and ‘decency’

2.1. Introduction

Throughout this study, references will be made to ‘taste’ and ‘decency’. Understanding what is tasteful and decent is culture specific, shaped by the customs, traditions, beliefs and value systems of a given society. While certain material may cause offence to all, one must accept there is material which will offend one group or community while the same material is judged as benign by others. Acknowledging this to be the case should not lead to a shying away from defining ‘taste’, ‘decency’ - and the related term, ‘obscenity’ - in broad terms. It is the aim of this section to do just that, to look briefly at some definitions which have been proffered.

2.2. ‘Taste’

‘Taste’ can mean many things. It can refer to the preference one exhibits for food, drink, clothes, music among a whole range of items. A person’s typical preferences are evident from what they choose and what they buy. In this study, it refers to the quality of not being offensive or bad-mannered. To be tasteful, is to have shown good social or aesthetic taste. For Colin Shaw, ‘Good taste has an elusive quality. Easier to recognize by its absence than its presence. We are not all capable of defining its elements and, if we were, we would be unlikely to agree what they were or even if they were there at all.’¹

2.3. ‘Decency’

‘Decency’ is shaped by the norms of a given society, conforming to the prevailing standards of what is considered to be appropriate. It can also refer to being polite and respectable, fit and proper.

It is the absence of decency, or more accurately ‘indecent’, which causes offence. The Federal Communications Commission (FCC) in the United States (US) restricts indecent broadcasts to the hours of 10pm and 6am, defining such programmes ‘as language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary standards for the broadcast medium, sexual or

¹ Shaw, C. (1999), *Deciding What We Watch – Taste, Decency, and Media Ethics in the UK and the USA*, 33.

excretory organs or activities.² Such judgements, it argues, should be according to what the average viewer might find offensive, not specific to pockets of society. Context plays a significant part here – all complaints made to the FCC must be judged within the overall framework of the programme broadcast, measuring what was said and the context in which it was stated.³

By allowing indecent broadcasts during the hours of 10pm and 6am, the FCC is making a distinction between ‘indecent’ and ‘obscene’ broadcasts. ‘Indecent’ broadcasts cannot be banned entirely as can broadcasts which are ‘obscene’. For the FCC, ‘Indecent programming contains sexual or excretory references that do not rise to the level of obscenity.’ During the hours 6am and 10pm, programming is ‘subject to indecency enforcement action.’⁴

The Irish Constitution refers to indecent material but without development. Section 2 of the *Censorship of Publications Act, 1929* states that indecent ‘shall be construed as including suggestive of or inciting to sexual immorality or unnatural vice or likely in any other similar way to corrupt or deprave.’

2.4. ‘Obscene’

‘Obscene’ is generally understood to be something or some action that is offensive to accepted standards of decency and/or modesty. The action might seek to deprave or corrupt or simply to disgust. What then of obscenity in broadcasting?

Shaw refers to the *Obscene Publications Act, 1959* in Britain to find definitions of ‘obscenity’ and ‘corrupt’ while acknowledging that no broadcaster has ever been prosecuted under it. Here he states that ‘Under the Act, the test of obscenity is whether the material complained of, taken as a whole, tends to deprave or corrupt those who are likely to read, see, or hear it. ‘Corrupt’ has been interpreted in the courts as ‘likely to lead to serious damage,’ exceeding mere disgust and revulsion.’⁵

Referring to the US, the FCC has devised its own method of determining what it considers to be obscene material. More specifically,

To be obscene, material must meet a three-prong test: (1) an average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest; (2) the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and (3) the material, taken as a whole, must lack a serious literary, artistic, political, or scientific basis.⁶

In Ireland, the Constitution does not refer to ‘obscenity’ albeit referring to indecent material. Broadcasting legislation makes no reference to either but individual broadcasters have paid particular attention to it. RTÉ, for example, has stated that

² Federal Communications Commission (2004a), *Obscene & Indecent Broadcasts*, 27 January, 1.

³ FCC, 6.

⁴ FCC, 1.

⁵ Shaw, 34.

⁶ FCC, 1.

‘Obscenity is defined as matter that depraves or corrupts.’⁷ Furthermore, it believes that ‘Obscenity is something that goes beyond the boundaries of what is acceptable. There can be no place for it in the public service broadcasting.’ For RTÉ, the nature of public service broadcasting brings additional responsibility. This is particularly true as the services provided are free-to-air:

None of RTÉ’s services are encrypted or accessed by payment. This means in theory everyone is capable of receiving RTÉ’s programmes. Responsibility in avoiding any broadcast that might be deemed obscene is therefore all the greater. The determination of obscenity is not a matter for the individual programme-maker.⁸

2.5. So how to proceed?

One size does not fit all. Broad principles, however, can be applied. In its 2004 consultation document, Ofcom in the United Kingdom identified matters to be taken into account in upholding standards. These were seen as forming the basis upon which provisions could be devised. More specifically, they included:

- (a) the degree of harm and offence likely to be caused by the inclusion of any particular sort of material in programmes generally or in programmes of a particular description;
- (b) the likely size and composition of the potential audience for programmes included in television and radio services generally or in television and radio services of a particular description;
- (c) the likely expectation of the audience as to the nature of a programme’s content and the extent to which the nature of a programme’s content can be brought to the attention of potential members of the audience;
- (d) the likelihood of persons who are unaware of the nature of a programme’s content being unintentionally exposed by their own actions, to that content;
- (e) the desirability of securing that the content of services identifies when there is a change affecting the nature of a service that is being watched or listened to and, in particular, a change that is relevant to the application of the standard set under this section;
- (f) the desirability of maintaining the independence of editorial content over programme content.⁹

These criteria informed Ofcom’s approach to setting the code. It believes these main points should be taken into account by broadcasters in interpreting the rules.

2.6. Concluding remarks

These are broad definitions of ‘taste’, ‘decency’ and ‘obscenity’. While they can act as indicators, they cannot specify what upsets, offends and harms individuals, groups and/or communities. The need for culture-specific material in this respect is therefore great.

⁷ RTÉ (2002), *Programme-Makers Guidelines*, n.pag.

⁸ RTÉ, n.pag.

⁹ Ofcom (2004), Summary: *Consultation on the proposed Ofcom Broadcasting Code*, 14 July, 7.

Part Two

Factors affecting the assessment of content

Part Two

Factors affecting the assessment of content

Up to this point, many themes have been juxtaposed. The reader has been led through a maze of legislation and definitions. The basis of the report is now in place. *Part Two* builds on this foundation. It identifies internal and external factors and assesses how these affect the receipt and acceptance of certain material by individual listeners and/or viewers.

Chapter 3 deals with the theme of ‘context’ among other factors. Here the reader is introduced to factors relating to a person’s interaction with television and programming and the aspects which can influence opinions regarding specific subject matter. Five areas are relevant in this respect: – context, the channel viewed, acquired programming, gender and age.

Where Chapter 3 refers to internal factors, to factors pertaining to the individual, Chapters 4 and 5 look at more external elements that can, and do, inform viewer choice. Chapter 4 considers the convention that is the watershed. Defining the term and identifying the rationale for its application, this chapter looks at how it operates in a sample of countries. It documents the different starting times while examining the need for interaction between parent and broadcaster to make the watershed an effective measure of protection against potentially harmful and/or offensive material.

Chapter 5 addresses the area of classification systems. It outlines the perceived need for such and demonstrates that for some, classification systems are considered to be a middle ground between censorship and no protection at all. In addition, it looks at control mechanisms currently available.

Essentially, *Part Two* serves a dual purpose. On the one hand, it considers what shapes individual perceptions of broadcast material while on the other, it identifies what mechanisms are in place/can be activated to inform viewer choice.

3. Context and other considerations

3.1. Introduction

Research shows that certain material offends. It is not always clear, however, why it offends some but not all. Five factors are believed to be most influential in shaping how a person receives sound and images from the broadcast media and how they measure them in terms of their potential to offend and to cause harm. This section looks briefly at these five, identifying them as context, the channel viewed, acquired programming, gender and age.

3.2. Context

Context is all important when it comes to matters of taste and decency and will be a recurring theme throughout this study. While material might be highly offensive when considered in isolation, it has been found that when questioned, most people ‘say that the majority of incidents they note (of violence, swearing and offensive language or depictions of sex) are justified within their editorial context.’¹ It is when an action is judged as ‘gratuitous’ that people often find it unpalatable and thus, unacceptable.

A comparative analysis of codes operating in other jurisdictions highlights how much emphasis is placed on the notion of context. Some examples can be offered here. For the Federal Communications Commission (FCC) in the United States (US), ‘...context is key! The Commission staff must analyze what was actually said during the alleged broadcast, the meaning of what was said and the context in which it was stated.’ According to the Broadcasting Authority of Hong Kong, ‘Much depends on the context; i.e. where and why the material appears in the particular programme, whether a scene may be justified by the storyline or the expectations created about the individuals characters. What is unacceptable in one context may be appropriate and acceptable in another.’² In the United Kingdom (UK), Ofcom has sought to provide a definition of ‘context’:

Context is used to denote, among other things, the matters...[such as] the degree of harm or offence caused by the inclusion of a particular sort of material, the likely

¹ Broadcasting Standards Commission (2000c), *Matters of Offence*, October, 2.

² Broadcasting Authority of Hong Kong (2003), *Generic Code of Practice on Television Programming Standards*, 6.

size and composition of the audience, the likely expectation of the audience, the extent to which content can be brought to the attention of the audience e.g. by the giving of information and the effect of the material or somebody views or hears it by chance. Context, also includes the service, the time of transmission, what other programmes are scheduled before and after the programme concerned, whether the programme is a one off or part of a series as well as the editorial content of the programme. This list is not exhaustive.³

How does the perceived importance of ‘context’ apply to actual specifics – for example, language. According to Andrea Millwood Hargrave, research has shown that people ‘were far more likely to accept swearing or offensive language in situations in which genuine surprise was expressed, or in dramatic sequences where the stresses of real life were being portrayed. They accepted that even racist or derogatory terms could be used if they were used for ‘appropriate’ dramatic effect.’⁴

3.3. Channel viewed

People have different ideas about what offends and experience different levels of offence. While ‘context’ will often influence the degree of offence felt, there are other considerations to note. Colin Shaw summarises these when he says ‘audiences bring different expectations to different programmes, more complex than the difference of one kind of programme from another but derived from differing times of day, differing channels, differing artists, and differing weight of seriousness of purpose and context.’⁵

The perception of the channel viewed is also an important factor in determining how incidents are received as it plays a distinct role in people’s expectations. Particular attention was paid to this in Millwood Hargrave’s report *Delete Expletives?* From participants in this UK research, she discovered different expectations were created by the different style and tone of each station. In turn, this might affect decisions regarding which channel to watch. BBC1, for example, ‘was expected to be the most “responsible” of channels as it is paid for by the licence fee and, therefore, “owned” by all. It was expected to set an example for other channels to follow.’⁶ Given the status attributed to BBC1, few people thought strong language was acceptable on that channel.

What then of other channels available in the UK? BBC2 was seen as a more adult station with less appeal to children. Many felt that ITV had less constraints ‘but its place as a mainstream channel meant that it was expected to avoid controversy.’⁷ Such tenets were also applied to Channel 4. Five was described as ‘tabloid TV’ and as

³ Ofcom (2004), Summary: *Consultation on the proposed Ofcom Broadcasting Code*, 14 July, 23.

⁴ Advertising Standards Authority, BBC, BSC and ITC (2000), *Delete expletives*, a report by A. Millwood Hargrave, 35.

⁵ Shaw, C. (1999), *Deciding what we watch – Taste, Decency and Media Ethics in the UK and the USA*, 4.

⁶ ASA, BBC, BSC and ITC, 32.

⁷ ASA, BBC, BSC and ITC, 33.

a result, there was a greater expectation of bad language. Non-terrestrials were viewed on quite different grounds. According to Millwood Hargrave

The non-terrestrial channels lie at the foot of this pyramid of expectations. The key difference for participants was that these were paid for channels and thus, those who bought into them were doing so 'voluntarily'. Viewers could simply stop buying if the content of a service displeased them.⁸

For those who did subscribe, there was a greater expectation of strong language and other images not seen on terrestrial television. Those with satellite television were 'less likely to say there was "too much" violence, bad language or sex on television'.⁹ Following on from this, there may be greater acceptance but, as Millwood Hargrave points out, acceptance does not necessarily equal approval.¹⁰

3.4. Acquired programming

It is not only the station viewed but the origin of the programming which affects how people judge a programme or the tone and style of content presented. A greater proportion of bad language is expected in US imports, for example, than in UK programmes but this can fluctuate between countries according to genre.¹¹ More specifically,

It was widely accepted that important American material contained different levels of 'strong' language depending on the genre. So, comedies were thought to contain less swearing and offensive language, and little sexual innuendo, when compared with their British counterparts. American films, on the other hand, were expected to contain 'stronger' language than the equivalent British product. However, participants suggested this use of language was less offensive because the culture being depicted was removed from their own and so they could disassociate themselves from the language.¹²

Such expectations can also be mixed with attitudes vis-à-vis the channel viewed. Consequently, 'British Productions were expected be more restrained' especially when funded by the BBC.¹³

3.5. Gender and age

Gender and age play a significant role in determining what a person views as acceptable, offensive or unacceptable. In general, it is believed that women and older

⁸ ASA, BBC, BSC and ITC, 34.

⁹ BSC (1999b), *Monitoring Report 7*, 23.

¹⁰ ASA, BBC, BSC and ITC, 34.

¹¹ BSC (1999b), 67.

¹² ASA, BBC, BSC and ITC, 29-30.

¹³ ASA, BBC, BSC and ITC, 30.

people are more likely to say there is ‘too much’ violence, swearing and offensive language and sex.¹⁴ Research has discovered that these are also the groups which are least likely to report an incident, tending more to avoid material with the potential to cause them offence.¹⁵ Those with children were also more susceptible to feeling, and guarding against, offence than those without children.¹⁶

Referring to bad language, younger people were less concerned than older groups. They were, however, found to be most sensitive to racial abuse.¹⁷ Age also played its part in how images of sexual activity were assessed. Older people have exhibited more concern when compared to younger people.¹⁸ Gender is also significant here with ‘men far less likely to note “too much” sex on television than women.’¹⁹

Men and women have also been found to exhibit ‘startling differences’ when watching violence on television. More specifically, it has been discovered that ‘women often identified with an abused woman and were apt to speculate on the motives for men’s violence. However, the men...showed little curiosity about motivation and an inclination to be dismissive of some violent acts.’²⁰ Female viewers were also found to be more aware of wider repercussions than their male counterparts. Consequently, it has been recorded that men are ‘far less concerned about the role models than women who had shown more concern about the impact of some programming on children and what they might learn from it.’²¹

3.6. Concluding remarks

It is not enough to know what causes offence or how it causes offence, one needs to be aware of the factors which mould individual perceptions and methods of assessment. No two people are alike. The five factors provide insights into what shapes personal opinions in this respect. Each serves to highlight the underlining premise of this study: what might be acceptable to one is not acceptable to all and provides points vis-à-vis why this might be so.

¹⁴ BSC (2000c), 5.

¹⁵ BSC (2000c), 10.

¹⁶ BSC (2001), Briefing Update 8, *Concerning Regulation*, 2.

¹⁷ BSC (1998a), News release: *Bad language continues to cause concern*, 1.

¹⁸ BSC (1997), *Regulating Changing Values*, 3.

¹⁹ BSC (1999b), 23.

²⁰ BSC (1998d), News Release: *Men Viewing Violence: new report contrasts differing attitudes of men and women*, 1

²¹ BSC (1998d), 1.

4. The watershed

4.1. Introduction

This section considers the convention that is the watershed. It defines what is meant by the watershed and addresses awareness of this term. It identifies the times allocated to the watershed period in a variety of countries considered throughout this study. Looking at the practical implications of this convention, it addresses the advantages and disadvantages of such practice and evaluates its ability to protect viewers in their viewing. The section concludes by outlining a series of questions for further investigation.

4.2. Defining ‘the watershed’

Countries choose to define ‘the watershed’ in both narrow and broad terms. The former Broadcasting Standards Commission (BSC) in the United Kingdom (UK), for example, adopted a narrow approach stating that ‘The television Watershed, which starts at 2100 and lasts until 0530, is well established as a scheduling marker to distinguish clearly between programmes intended to be suitable for family viewing and those intended primarily for adults.’¹ The Broadcasting Authority of Hong Kong took a more descriptive approach when it said that

The family viewing hours are determined as the period between the hours of 4.00pm and 8.30p.m. on any day, during which time nothing which is unsuitable for children should be shown. The Family Viewing Policy assumes that there is a progressive decline in the proportion of children present in the audience throughout the evening. The restriction on the provision of material suitable for children should only be relaxed on a gradual and progressive basis after 8.30p.m. It is assumed that after 8.30p.m. parents may reasonably be expected to share responsibility for what their children are permitted to watch.²

¹ Broadcasting Standards Commission (n.dat), *Code on Standards*, 15.

² Broadcasting Authority, Hong Kong (2003), *Generic Code of Practice on Television Programming Standards*, 27 June, 8.

The Commonwealth Broadcasters Association's (CBA) definition is more concise. For the CBA,

The basic principle of the watershed is that material which is unsuitable for children cannot be broadcast before this time as large numbers of children are likely to be viewing. These are programmes which are intended for adult audiences, which deal with controversial themes, or contain scenes of violence, sexually explicit conduct, nudity, swearing, bad or profane language. They should not be broadcast until well after the watershed.³

Viewed collectively, these definitions of the watershed centre on a number of common themes. These can be outlined as follows:

- that after a designated time each evening, there is a progressive decrease in the number of children watching television;
- that there is a corresponding increase in the level of adult material broadcast;
- that programmes containing scenes of violence, sexually explicit conduct and swearing or profane language are not acceptable viewing prior to a specific time;
- that after the appointed time, parents assume increasing responsibility for the material their children view;
- Material should not change abruptly when the watershed begins. Instead, the progression is expected to be gradual as children finish viewing and retire to bed.

4.3. Watersheds compared

The sample of definitions presented indicates that different countries ascribe different time periods to their watersheds. Table 4.1 identifies the position vis-à-vis such restrictions in a variety of countries.

³ Commonwealth Broadcasting Association (n.dat), *CBA Editorial Guidelines* (draft), 19.

Table 4.1
Current positions regarding the watershed in sample countries⁴

Country		Start time	Finish time (if available)
Czech Republic		10pm	
Denmark		9pm	
Germany		10pm	
Finland		9pm	
France		10pm	
Germany		10pm	6am
Hong Kong		8.30pm/11.30pm ⁵	
Hungary		11pm	9am
Ireland			
	<i>RTÉ</i>	9pm	6.30am
	<i>TG4</i>	9pm	3pm (sign off at night) ⁶
	<i>TV3</i>	9pm	until sign-off at night
Italy		10.30	7am
Luxembourg		No watershed rules	
Malta		9pm	
Netherlands		8/10pm ⁷	
Norway		9pm	
Poland		11pm	6am
Portugal		10pm	
Romania		10pm	6am
Slovak Republic		10pm	6am
Spain		10pm	
Sweden		9pm	
Switzerland		8pm	
United Kingdom		9pm	5.30am
United States of America		10pm	6am

There is no common time at which the watershed comes into effect. In many countries, it applies seven days a week with no change occurring at holiday time.

⁴ Information collated from EPRA (1998), *Violence on Television*, 3-4; and DVB Regulatory Group (2000), *Parental Control in a Converged Communications Environment – Self-Regulation, Technical Devices and Meta-Information*, Appendix I: ‘Watershed systems’, 67-69.

⁵ Decline in family styled viewing occurs from 8.30pm. At this time, depictions of sexual behaviour and nudity, for example, must be discreet and appropriate to the story line or programme context. After 11.30pm, depictions of sexual behaviour are permitted but only in a discreet and simulated fashion which is not offensive and is in the context of the programme.

⁶ On the recommendation of the responsible programme executive, some ‘over-18’ material may be scheduled after 10pm only.

⁷ Films which have been rated by the Dutch Board of Film Classification (NFK) in the past and since the 1st of January 2000 by NICAM for an audience over 12 years of age, may not be shown before 20.00 hours. Films which have been classified ‘16 and over’ may not be broadcast before 22.00 hours.

Collapsing material presented in Table 4.1, Table 4.2 illustrates more clearly the times favoured. It shows that the vast majority of watersheds come into affect between 9 and 10pm.

Table 4.2
Current positions regarding the watershed in sample countries
(collapsed categories)

Start time	Number of countries
8pm	2 ⁸
8.30pm	1 ⁹
9pm	9 ¹⁰
10pm	9 ¹¹
10.30pm	1 ¹²
11pm	2 ¹³

Base: Where more than one start time is in operation, the earlier time is included in this table.

Of countries surveyed, Table 4.2 shows that the majority favour later starting points. Moving to a later time, however, can often meet with resistance. While the watershed might afford children the right to be protected from inappropriate material, adults also have a right to view programmes made for more mature audiences. UK based research published in 2003 supported the starting time of 9pm when it presented the following finding:

The [Independent Television Commission] states that material unsuitable for children must not be transmitted at times when large numbers of children may be expected to be watching. However, the ITC recognises that the majority of homes do not contain children (70%) and viewers have a right to expect a range of subject matter.¹⁴

Houses without children, therefore, are in a majority in the UK and it can be surmised that this pattern is present in other countries too. The later the hour, the greater the possibility it will impinge on adult viewing time. This is not an argument in favour of abandoning the watershed as such inconvenience, it is believed, can 'easily be overcome in this age of DVDs and video-recording.'¹⁵

⁸ Netherlands, Switzerland.

⁹ Hong Kong.

¹⁰ Denmark, Finland, Ireland (RTÉ, TG4 and TV3), Malta, Norway, Sweden, United Kingdom.

¹¹ Czech Republic, Germany, France, Germany, Portugal, Romania, Slovak Republic, Spain, United States of America.

¹² Italy.

¹³ Hungary, Poland.

¹⁴ BBC, BSC and ITC (2002), *The Watershed: Providing a safe viewing zone*, report by G. Ramsay, 9.

¹⁵ BBC, BSC and ITC, 34.

4.4. And radio...?

The watershed does not currently apply to radio. Instead efforts are made to make programming more general in emphasis, steering away where possible from potential to cause harm or offence.¹⁶ This is the position of the BBC. The former BSC argued that while radio is not as regulated as television in this respect, certain restrictions still apply. Consequently, it stated that ‘caution should be exercised at the times that children tend to listen, especially during breakfast programmes and during the “school run.”’¹⁷ Similarly, RTÉ acknowledges that no watershed applies to its radio services. It does recommend, however, that programme makers be conscious of the general times when children might be listening.¹⁸

4.5. The watershed and parents

For parents, the watershed is often seen as having a triple purpose. It can signal bedtime. More importantly, it can be viewed as a protective device for children while serving as a reminder to them that the nature of programming is to change at a designated time.¹⁹ It is at this point that parents are expected to assume greater, and increasing, responsibility for what their children are watching and for the material they are exposed to.

4.6. ‘Contract’ with broadcasters

According to Andrea Millwood Hargrave, the watershed ‘is clearly recognised as an indication of the likely unsuitability of material for children and the majority of parents accept that they must exercise greater responsibility for their children’s viewing after that time.’²⁰ Many acknowledge the watershed as a contract between parents and broadcasters, a point in the schedule when parents increase their responsibility for their children’s viewing.²¹ Up to this time, it is believed broadcasters and parents share responsibility. In 2001, the BSC provided the following results:

When prompted, a number of those questioned, 71% of respondents with children at home said that they had prime responsibility for what their children watched pre-watershed. This figure jumped to 87% post watershed. However, the importance to respondents of the Watershed underlines the feeling that the broadcaster also shares in this responsibility. Indeed the majority of respondents (77%) said the Watershed would be necessary even if pre-transmission warnings were given.²²

¹⁶ BBC (n.dat - b), *Policies – Decency standards*, n.pag.

¹⁷ Broadcasting Standards Commission (n.dat), *Code on Standards*, 4.

¹⁸ RTÉ (2002), *Programme-Makers Guidelines*, n.pag.

¹⁹ BSC, BBC and ITC (2001), *Viewers and Family Viewing Policy*, report by Dr. R.C. Towler, September, 49.

²⁰ Advertising Standards Authority, British Broadcasting Corporation, Broadcasting Standards Commission and the Independent Television Commission (2000), *Delete expletives*, report prepared by A. Millwood-Hargrave, 26.

²¹ ASA, BBC, BSC and the ITC, 26; BSC, BBC and ITC, 24. BBC, BSC and ITC, 10.

²² Broadcasting Standards Commission (2001b), News Release: *Briefing Update 8 – Concerning Regulation*, 23 May, 1.

In Ireland, recent research carried out by the Irish Film Censor's Office (IFCO) referred to the watershed. 'Parents', IFCO identified, 'acknowledge that they are reliant on the "watershed" and schedule in general to help them "monitor" what their children are exposed to.'²³

4.7. The UK's 'Family Viewing Policy'

This belief in contract is omnipresent in the UK's 'Family Viewing Policy'. Such a policy is considered to be an agreement between broadcasters and regulators on the one hand and viewers on the other. The three principal points are as follows:

- What is shown on television up to 9pm in the evening will be broadly suitable for children under the age of 16 to see without the need for parental supervision.
- After 9pm, material unsuitable for children will be shown only progressively, with the more unsuitable programming shown at progressively later hours.
- Nine o'clock is the 'watershed', but it does not mark a 'waterfall', i.e. after 9pm programmes may progressively contain material unsuitable for children, but there is not a sudden switch to wholly unsuitable material.²⁴

In its *Programme-Makers Guidelines*, RTÉ also makes references to a family viewing policy'. More specifically, it states that

The necessary compromise is a 'family viewing' policy which assumes a progressive decline throughout the evening in the proportion of children present in the audience. It requires a similar progression in the successive programmes scheduled from early evening onwards; the earlier in the evening the more suitable; the later in the evening, the less suitable. Within the progression 21.00 is fixed as the time up to which nothing is shown that is unsuitable for children.²⁵

4.8. Awareness of the watershed

Research in the UK has shown that the majority of people know of the watershed and what it stands for. More specifically, it was stated that in surveys, 82% had heard of the watershed and this rose to 92% amongst respondents who were parents or guardians.²⁶ Younger people were more likely not to have heard of 'the watershed.' For those unfamiliar with the term, there was still a knowledge that the nature of material broadcast changes after 9pm.²⁷

Awareness of the watershed does not denote understanding. In the UK, it was discovered that while many knew about the watershed, 'few had given the genesis of the policy much thought; nor had they speculated as to who might be responsible for

²³ IFCO (2004), *Parental Usage & Attitudes Survey*, 10.

²⁴ BSC, BBC and ITC (2001), 6.

²⁵ RTÉ, n.pag.

²⁶ BBC, BSC and ITC, 13.

²⁷ BBC, BSC and ITC, 13.

monitoring and implementing it.²⁸ Confusion arises. While people understand its applicability to home-based, terrestrial stations, they are not sure if the watershed applies to cable and satellite services.²⁹ There is also confusion vis-à-vis its applicability to news and current affairs.

4.9. Watching past the watershed

The watershed does not, and cannot, afford absolute protection. Nor is it foolproof or child proof. It does not signal a common point where children of all ages retire to bed. As material becomes increasingly adult, there is a corresponding decrease in the number of children watching. Information gathered in the UK reveals that from Sunday to Thursday, school nights, 52% of children said they went to bed before 9pm. Patterns visible at the weekend are dramatically different as the following extract shows:

On a Friday or Saturday evening only 25% of young people go to bed by 9pm...Children of all ages tend to go to bed later on Friday and Saturday evenings than other evenings. By the time children have reached about 10 years of age, more than one in two got to bed after 9pm.³⁰

4.10. Children's attitudes to the watershed

Children generally understood the reasoning behind the watershed. They acknowledge that their parents are often acting in their best interests when television viewing is restricted in this manner. From experience, many had learnt that pre-broadcast warnings and the watershed combined to show that material was inappropriate and there was 'a chance that they really [would] not like what follows.'³¹

4.11. By-passing the watershed

As Chapter 13 will show, children are not a monolith nor do they adhere to the confines of the watershed. According to R.C. Towler, children are becoming increasingly adept at evading parental restriction: 'if children are determined to watch a programme they will usually find a way of doing so, employing one strategy or another.'³² Common methods used include video recording the programme to watch when parental supervision is limited or watching while on a sleepover at another child's house. They may posit blame on an older sibling or watch secretly in their bedrooms. Many parents are not ignorant of such actions but often 'collude in their children's deceptions.'³³ Some parents believe that society has changed to such an extent that children can now be given increasing responsibility over decisions in their lives and this includes television viewing. In Ireland, a quantitative study looking at 400 young people between the ages 12-17, found that 57% had a television in their room; this did not increase markedly with age being 55% at 12/13. Consequently, it

²⁸ BBC, BSC and ITC, 15.

²⁹ Broadcasting Standards Commission (1998c), *Monitoring Report 6*, June, 17.

³⁰ BBC, BSC and ITC, 25.

³¹ BSC, BBC and ITC (2001), 27.

³² BSC, BBC and ITC (2001), 28.

³³ BSC, BBC and ITC (2001), 29.

was found that ‘most have exposure to a wide range of programming and it is very rare for them to watch TV in the company of either parent.’³⁴

4.12. The watershed and older children

Parents often find it more difficult to adhere to restrictions when older children are present in the house. In such a situation, the watershed rarely informs viewing decisions. Some believe it is no longer relevant in their houses, that children are becoming increasingly able to watch and interpret material broadcast at later hours. It has been argued, however, that many such parents have found it so difficult to regulate television viewing among older children that they have simply given in to their children’s demands.³⁵ Others may argue that they are giving them increased autonomy over decision making, equipping them for the ‘real world.’

4.13. Approach of parents

Parents may also view the watershed as inadequate as a restrictive measure, that it must be combined with other approaches to be significant. It has been found, therefore, that some parents use the watershed time period in conjunction with ‘television listings, pre-transmission announcements and other information (such as the appearance of a particular actor) to help them judge the probable content of a programme...’³⁶

Similarly to children, parents are also not a monolith. They vary in a number of respects; for example, the context and age of their families, their degree of conscientiousness and their ability to follow things through. Referring to the UK’s ‘Family Viewing Policy’, Towler illustrates the differences that exist:

Family Viewing Policy, as with parental views, and their intervention in children’s viewing in general, is actively ‘used’ and valued among three sub-groups: families with younger children (versus families with older children); homes of those in higher (versus lower) social grades; homes having access to only terrestrial channels (versus multi channel homes).³⁷

The existence of restrictions therefore does not suggest that all will avail of them. The availability of relevant information does not mean that it will be consulted. Parents are free to use such measures as they are to avoid them.

4.14. The watershed and intergenerational viewing

Parents want protection for their children from inappropriate material while watching television. The implications of this are more widespread, however. The watershed is also believed to provide a safe zone for intergenerational viewing. Young adults accept this time as a period when they can watch television with their parents and/or

³⁴ MEAS (2004), *Underage drinking is rarely black and white*, Dublin: 16th June, 23-24 at 24.

³⁵ BSC, BBC and ITC, 5, 25-26 and 28.

³⁶ BSC (1999), *Monitoring Report 7*, 96.

³⁷ BSC, BBC and ITC, 49.

grandparents ‘without the worry of seeing programming which might embarrass or offend.’ For parents,

While protection was important for children viewing alone, [they] were equally keen that their children should be protected from inappropriate viewing when families were viewing together. In particular, they wanted to be protected from material which was disturbing or too explicit or which may raise issues which they were not ready to deal with.³⁸

4.15. Support for the watershed

In general, support was expressed for the watershed. According to Gillian Ramsay, ‘Most participants [in her study] expressed a high level of support for the three main purposes of the watershed that they identified: the protection of children, the provision of a safe viewing zone for adults, and the restraint of broadcasters.’³⁹ For R.C. Towler,

Even among parents of older children, for whom the nine o’clock deadline is less directly relevant, there is support for the watershed. There is a feeling that it serves its purpose, and that, even at the risk of seeming a little puritanical, it is best to err on the side of caution. The feeling that there is a completely safe zone before 9pm on terrestrial television is found reassuring, and so parents appreciate an arrangement whereby broadcasters and regulators share responsibility for their children with them.⁴⁰

4.16. Where to now?

In her study, *The Watershed: Providing a safe viewing zone*, Ramsay posed a number of questions regarding the watershed.⁴¹ They are included here as guidelines for further investigation and for the gathering of information pertaining to Ireland specifically. These questions are as follows:

- How do people use the watershed (especially parents)?
- Do adult viewers use it as a guide for their own viewing?
- Do adults think it restricts their viewing?
- Do viewers think the broadcasters are adhering to the watershed?
- Are there any particular types of programmes or types of content which are not meeting audience expectations regarding the watershed?
- Do audience expectations differ between weekday and weekend or between term time and school holidays?

³⁸ BBC, BSC and ITC, 15.

³⁹ BBC, BSC and ITC, 33.

⁴⁰ BSC, BBC and ITC, 25.

⁴¹ BBC, BSC and ITC, 11.

- What are viewers' expectations of particular types of programmes or content (swearing, nudity and sex, violence) leading up to the watershed and immediately after the watershed?
- What are people's attitudes to programmes that straddle the watershed? (such programmes may show less suitable or more explicit material after 9pm although the programme began well before the watershed)

4.17. Concluding remarks

This chapter looked at many aspects of the watershed. In so doing, it defined the term while identifying succinctly the role of key actors in the implementation and observation of this scheduling marker. While not foolproof, often skilfully circumnavigated by underage imps, there was general agreement that it remain in place. It was accepted as an informal contract between broadcasters and parents where the former did not show unsuitable material before 9pm and the latter assumed greater responsibility for what their children watched thereafter. It was also acknowledged that, relied on solely, the watershed could never offer proper protection. For RTÉ, 'The watershed...allows some limited comfort for material which may be at the acceptable edge of taste and decency but provides no comfort for obscenity.'⁴² For parents to be truly vigilant, they needed to take a more proactive approach – looking at listings, warnings and classification systems. Overall one sees that, where broadcasters can provide all the necessary ingredients, the onus remains on the parents to follow through. It is only then that children have a real chance of being protected.

⁴² RTÉ, n.pag.

5. Classification systems and warnings

5.1. Introduction

Rules are in place. The watershed exists. How then do people react when offensive material appears? In 2001, the former Broadcasting Standards Commission (BSC) in the United Kingdom (UK) produced the following answers to that question:¹

Table 5.1
Action taken to offensive material

	Swearing and offensive language	Sex	Violence
	%	%	%
Continued watching	82	74	81
Switched channels	8	13	6
Switched off	5	5	4
Kept television on but looked away	5	8	10

The vast majority remain with the programme. If people are offended, how then can they be assisted in making an informed choice vis-à-vis their television viewing to avoid occasions of harm?

Countries considered in this study generally employ a three-pronged approach to solving this dilemma. Indeed this style has been outlined in Article 22 of the

¹ Broadcasting Standards Commission (2001), *Briefing update*, May, 6. It was found that those with cable or satellite were far less likely to say they had switched off because they were personally disgusted. When the same question was asked regarding radio, only 5% reported that they would switch off because of 'personal disgust.' There was a greater likelihood of listeners having a personal relationship with 'their' radio station and offence was therefore kept to a minimum.

Television Without Frontiers directive 1997. It ‘instructs the use of three predominant rating practices: a) selection of the time of broadcast (watershed), b) an acoustic warning before the beginning of programmes and c) a visual symbol, thereby imposing a basic rating framework across Europe.’² Chapter 4 reviewed aspects of the watershed. This chapter addresses the remaining two concerns. In so doing, it considers the development and logic of classification symbols, of labelling programmes so viewers are automatically alerted to the nature of their contents. Thereafter, it provides examples from other countries regarding the type of symbols used. This overview of classification systems considers the benefits and drawbacks of such an approach. The chapter ends by briefly looking at filtering devices.

5.2. Classification systems

Classification (also referred to as rating) systems have at their core the notion of protection. The belief is professed that those under 18 should be protected in varying degrees according to specified stages of development. After 18, it is believed that once programme content stays within the limits of the law, people are free to choose what they watch and listen to without undue interference.

In determining classifications, certain steps must be taken. For the Australian Broadcasting Authority (ABA), ‘...each broadcast day is divided into classification zones which are based on the majority audience normally viewing at that time with particular regard to the child component of the audience.’³ Only material considered suitable for a particular classification zone can be broadcast in that zone. The ABA are quite detailed in their approach, specifying a number of factors which influence individual determinations:

The suitability of material for telecast will depend on the frequency and intensity of key elements such as violence, sexual behaviour, nudity, and coarse language, and on the time of day at which it is broadcast. It will also depend on such factors as the merit of the production, the purpose of a sequence, the tone, the camera work, the relevance of the material, and the treatment. These factors must be all taken into account and carefully weighted. This means that some actions, depictions, themes, subject matter, treatment or language may meet current community standards of acceptability in one program, but in another program may require a higher classification, or be unsuitable for television.⁴

According to Brad J. Bushman and Joanne Cantor, many people consider ratings to be a reasonable middle ground between censorship at one extreme and providing no help

² European Platform of Regulatory Authorities (2003), Presentation on: *The need for a uniform rating system at European level*, given by Marianna Aletrari, Radio Television Officer, Cyprus Radio-Television Authority, 18th EPRA meeting, Nicosia: 22-24 October, 2.

³ Australian Broadcasting Authority, (n.dat – a), *Content Regulation – Commercial television code of practice*, 2.

⁴ ABA, 2.

to parents at the other.⁵ They divide systems into ‘evaluative’ and ‘descriptive’. More specifically,

Evaluative ratings make recommendations regarding who should or should not be exposed to a particular media offering. These ratings suggest the appropriate age for viewing (age-based ratings) or provide cautionary advice (e.g. *parental discretion advised*). In contrast, *descriptive ratings* (also referred to as *content based ratings*) contain information about the content of a media product. Descriptive ratings often indicate the presence and/or intensity of violence, sex, profanity or other controversial elements but do not make recommendations about who should or should not use the product...Other rating systems are hybrids of the two systems providing both evaluative and descriptive elements.⁶

This distinction between ‘evaluative’ and ‘descriptive’ is important. It provides guidance when considering examples provided hereunder.

5.3. Examples of classification systems

On-screen advice is offered by many countries. There is no set format, however; no generally accepted symbols or letters. What follows is a brief outline of some classifications available. Examples provided begin with Ireland, outlining those used by RTÉ and the Irish Film Censor’s Office. Following on, classifications available from Motion Picture Association of America (MPAA) and TV Parental Guidelines are provided. Systems in use in Australia, Canada, New Zealand and France are outlined thereafter.⁷

5.3.1. RTÉ

RTÉ uses classifications to notify viewers of programme content, and where appropriate, of its potential to offend.⁸ These appear on-screen at the start of the broadcast and are as follows:

⁵ Bushman, B.J. and J. Cantor (2003), ‘Media Ratings for Violence and Sex – Implications for Policymakers and Parents’, in *American Psychologist*, Volume 58, Number 2, 130.

⁶ Bushman and Cantor, 131.

⁷ The United Kingdom does not feature. The need for a classification system is currently under review at Ofcom. In addition, while pre-broadcast warnings are given, it is not mandatory to do so.

⁸ www.rte.ie.

Table 5.2.
Classification system: RTÉ

Classification	Description
GA	<i>General Audience</i> A programme that would be acceptable to all ages and tastes.
Ch	<i>Children</i> A programme aimed specifically at children, i.e. the pre-teenage or very young teenage audience.
YA	<i>Young Adult</i> A programme aimed at a teenage audience. That is to say it would not be of great interest to an adult. However, it might deal with issues which affect the teenage audience, e.g. relationships, sexual activity, sexuality, soft drugs. Parents and guardians could expect that “YA” programmes might contain such material and may choose to limit their children’s access.
PS	<i>Parental supervision</i> A programme aimed at a mature audience, i.e. it might deal with adult themes, be moderately violent, frightening or contain an occasional swear word and the classification label invites parents or guardians to consider restricting children’s access.
MA	<i>Mature Audience</i> A typical “post-watershed” programme which might contain sexual activity or violence, or the dialogue might be profane.

RTÉ applies a number of basic principles in this respect. These are as follows:

- A programme should be allowed to reach the widest appropriate audience;
- Young people should be protected from material likely to harm them;
- Adults should be free to decide what programmes they want to see, as long as the programmes remain within the law and do not incite harm;
- Decisions should take account of current public attitudes and relevant research;
- A balance must be maintained between freedom and responsibility.⁹

5.3.2. *Irish Film Censor*

The Irish Film Censor awards different classifications according to the content of the production.¹⁰ Pertaining exclusively to film, they are contained here as ratings instantly recognisable to the Irish public.

⁹ RTÉ (2002), *Acquired Programmes – Guidelines for Programme Acceptance*, n.pag.

¹⁰ www.ifco.ie.

Table 5.3
Classification system: Irish Film Censor

Classification	Description
G	A film classified as 'General' should be suitable for children of school going age.
PG	A film with a 'PG' cert may be watched by unaccompanied children of any age. However, because some element within the overall film might be unsettling for younger children, parents are strongly advised to satisfy themselves in advance as to whether the film is appropriate for their younger children.
12PG	Films classified as 12PG are likely to feature more mature themes, e.g. involving crime, conflict, relationships, etc. but persons of 12 and over will already be familiar with them from their television viewing.
15PG	Films classified in this category are considered to be suitable for those of fifteen and upwards. They may also be seen by younger children provided a parent or guardian accompanies them.
18	We operate on the basis that, as adults, persons who are 18 and over should be free, subject to the law, to watch what they wish.

Recent research by the Irish Film Censor's Office (IFCO) has found that parents are generally satisfied with the present classifications. 'They are seen as one of the main sources of useful information about film content and are an important reference when deciding what their children should be allowed to watch.'¹¹ Confusion arises, however, regarding the definition of 'PG', 'which on its own denotes "parental guidance", whereas in the context of 12PG or 15PG it denotes "parent or guardian accompanied."'¹²

5.3.3. Motion Picture Association of America (MPAA)

Motion Picture Association of America's (MPAA) apply standard ratings to its films.¹³ They are included here due to people's existing familiarity with this framework.

Table 5.4.
Classification system: MPAA

Classification	Description
G	General audiences – all ages admitted
PG	Parental guidance suggested – some material may not be suitable for children
PG-13	Parents strongly cautioned – Some material may be inappropriate for children under 13
R	Restricted – Under 17 requires accompanying parent or adult guardian
NC-17	No one 17 and under admitted

¹¹ IFCO (2004), *Parental Usage & Attitudes Survey of Film Classification*, 4.

¹² IFCO (2004), *Parental Usage & Attitudes Survey of Film Classification*, 4.

¹³ www.mpa.org/movieratings/content/htm.

W. James Potter is critical of the MPAA's system, believing it exhibits an overreliance on age. For him, 'The age-based system relies on the assumption that all children of the same age are the same as far as their ability to handle different television content.'¹⁴ The industry has counteracted this argument by saying these are merely suggestions and parents must take the abilities of their own children into account. Potter finds this unsatisfactory. It leads him to ask, if these ratings are only suggestions, where do parents get the rest of the information to base decisions on?¹⁵

5.3.4. *TV Parental Guidelines*

Featured on the MPAA website, these TV Parental Guidelines are widely available and commonly known.¹⁶ In addition, Canada has used them in conjunction with the 'V-chip' (see below).

¹⁴ Potter, W.J. (2003), "The Myth that the Rating Systems and V-Chip will help Solve the Problem" in C. von Feilitzen and U. Carlsson (eds.), *Promote or Protect? Perspectives on Media Literacy and Media Regulations*, Gothenburg, Sweden, 201.

¹⁵ Potter, 201.

¹⁶ www.mpa.org/tv/content.htm.

Table 5.5.
Classification system: TV Parental Guidelines

Classification	Description
TVY	<i>All Children</i> This program is designed to be appropriate for all children.
TVY7	<i>Directed to Older Children</i> This program is designed for children age 7 and above. It may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality.
TVG	<i>TVG General Audience</i> Most parents would find this program suitable for all ages. Although this rating does not signify a program designed specifically for children, most parents may let younger children watch this program unattended. It contains little or no violence, no strong language and little or no sexual dialogue or situations.
TVPG	<i>Parental Guidance Suggested</i> This program contains material that parents may find unsuitable for younger children. Many parents may want to watch it with their younger children. The theme itself may call for parental guidance and/or the program contains one or more of the following: moderate violence, some sexual situations, infrequent coarse language, or some suggestive dialogue.
TV14	<i>Parents Strongly Cautioned</i> This program contains some material that many parents would find unsuitable for children under 14 years of age. Parents are strongly urged to exercise greater care in monitoring this program and are cautioned against letting children under the age of 14 watch unattended.
TVMA	<i>Mature Audience Only</i> This program is specifically designed to be viewed by adults and therefore may be unsuitable for children under 17. This program contains one or more of the following: graphic violence, explicit sexual activity, or crude indecent language.

5.3.5. Australia

The Australians take a twin approach.¹⁷ They outline classifications to be applied while being equally specific regarding the time zones to which they apply. In addition, child viewing patterns are not accepted as static. Natural changes occurring from school days to school holidays to weekends are reflected.

¹⁷ Australian Broadcasting Corporation (2003), *ABC Code of Practice*.

Table 5.6.
Classification system: Australia

Classification	Description
G – General	Suitable for all ages G Programs, which include programs designed for pre-school and school age children: -are suitable for children to watch on their own; -may be shown at any time
PG- Parental Guidance	Parental guidance recommended for persons under 15 years. PG programs: -may contain adult themes and concepts which, when viewed by those under 15 years, may require the guidance of an adult;
M – Mature Audience programs and MA – Mature Adult Audience programs	- are programs which, because of the matter they contain or because of the way it is treated, are recommended for viewing only by persons aged 15 years or over.
X programs and unmodified R programs (not suitable for television)	-contain material which cannot appropriately be classified as G, PG, M or MA because the material itself or the way it is treated renders them unsuitable for television; -must not be shown at all.

Table 5.7.
Classification symbols by time zones

Classification	Time schedules	
	<i>Weekdays</i>	<i>Weekends</i>
G	6-8.30am	4-7.30pm
PG	Schooldays: 5-6am 8.30-12 noon 7.30-8.30pm School holidays: 5-6am 8.30-4pm 7.30-8.30pm	5-6am 7.30-8.30pm
M	School days: 12 midnight – 5am 12 noon-3pm 8.30pm-12 midnight School holidays: 8.30pm-5am	8.30pm-5am
MA	9am-5am	9am-5am

5.3.6. Canada

The Action Group on Violence on Television (AGVOT) comprises of representatives from broadcasting: cable, speciality and pay services, programme producers and advertisers. Recognised by the Canadian Radio-television Telecommunications Commission (CRTC) in 1997, it was given responsibility to develop classifications.

Original guidelines focused on television violence but this was later extended to include sexual content and coarse language.¹⁸

The guiding line through AGVOT's classification system has been described as follows: 'The content evaluation is assigned a rating according to the generally accepted stages of child development. Parents are already familiar with this approach in classifying movies, books, games, toys and other children's products.'¹⁹ Its rating system is to be applied to all categories of programmes 'no matter when they are scheduled.'²⁰ The 'Exempt' category, however, requires no icon.²¹

Table 5.8.
Classification system: Canada

Classification	Description
E	Exempt
C	Children
C8+	Children eight years and older (coverage of controversial themes should be discreet)
G	General programming, suitable for all audience
PG	Parental Guidance
14+	Viewers 14 years and older
18+	Adult programming

5.3.7. *New Zealand*

Compared to other examples, New Zealand takes a far broader approach. Its classification system is divided into three sections exclusively.

¹⁸ One should also note that this system was designed to work in conjunction with the V-Chip (see below).

¹⁹ Action Group on Violence on Television (AGVOT), Canada (1997), *Broadcaster Manual for the Canadian program classification system using on-screen icons*, September, 2.

²⁰ AGVOT, 4.

²¹ For more detailed information on this classification system, see Appendix VI.

Table 5.9.
Classification system: New Zealand

Classification	Description
G – General	Programmes which exclude material likely to be unsuitable for children. Programmes may not necessarily be designed for child viewers but must not contain material likely to alarm or distress them -G programmes may be screened at any time.
PGR – Parental Guidance Recommended	Programmes containing material more suited for mature audiences but not necessarily unsuitable for child viewers when subject to the guidance of a parent or an adult. PGR programmes may be screened between 9am and 4pm, and after 7pm and 6am
AO –Adults Only	Programmes containing adult themes and directed primarily at mature audiences AO programmes may be screened between midday and 3pm on weekdays (except during school and public holidays as designated by the Ministry of Education) and after 8.30 pm until 5am.

5.3.8. France

France opts for an age based approach.²² Here it is unusual as it takes 18 as a cut off point. Unlike the others, therefore, it proceeds no further.

Table 5.10.
Classification system: France

Classification	Description
-10	Programmes including some scenes liable to harm minors under 10.
-12	Cinematographic works prohibited for minors under twelve, and programmes that may disturb minors under 12, particularly when the scene recurs to the systematic or repeated use of physical or psychological violence.
-16	Cinematographic works prohibited for minors under sixteen, and programmes of an erotic or extremely violent character, liable to undermine the physical, mental or moral development of minors under 16.
-18	Cinematographic works prohibited for minors under eighteen and pornographic or extremely violent programmes reserved for informed adult viewers and liable to undermine the physical, mental or moral development of minors under 18.

5.4. Comparing classification systems

A marked degree of similarity exists between these systems. Where difference can occur is in the symbol used and the divisions made. In the majority of cases, protection for minors is divided into sections mirroring recognised stages of

²² Conseil Supérieur de l'Audiovisuel (2004), *The protection of children and adolescents on French Television*, May, 15.

development. A distinction is made according to a child's ability to deal with, and to interpret, certain material. There is general recognition that children are gradually exposed to more and more adult themes and/or content from age 12 onwards. While RTÉ chooses to stay with this approach, others seek to specify these stages by age. Consequently, one sees a defining of children – 0-17 for MPAA and TV Parental Guidelines and 0-18 for the Irish Film Censor and AGVOT. Australia is alone in choosing 15 as its cut-off point. In all those in use, the role of parents in supervising and guiding children's viewing is seen as paramount.

While differences might occur regarding what is considered acceptable, there is definite consensus concerning what is unacceptable. The following quote sums up sentiments felt:

Programmes liable to undermine human dignity, particularly programmes which present violent acts or sexual perversion, which are degrading for human beings or which lead to the debasement of human beings shall be entirely censored. The same applies to programmes of a pornographic nature portraying minors and programmes of extreme or gratuitous violence.²³

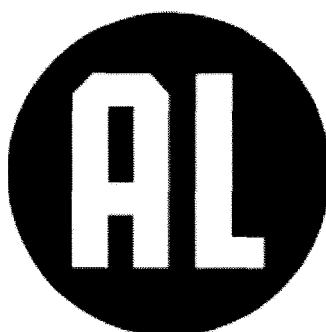
None of the approaches considered is risk free. Classifications used are not instantly recognisable. Of those reviewed, all assume some degree of media education to understand what the classifications stand for. Does '12', for example, mean suitable for under 12s or over 12s? In this situation, the inclusion of a plus or minus sign might be helpful, an approach adopted by the French. Why have 'MA' when you have 'M'? And the question emerges: who ascribes the classification? According to Potter, only the programmers themselves are permitted to give their own shows the ratings and this, he argues, is akin to 'putting the fox in charge of guarding the henhouse.'²⁴

The sample assumes literacy on the part of all citizens and/or that everyone speaks the main national language fluently. The Dutch, however, have taken a different track, using symbols rather than numbers and/or letters only to alert viewers to programme content. These are as follows.

²³ CSA, 15.

²⁴ Potter, 204-5.

*Pictograms currently used by the Dutch 'Kijkwijzer'*²⁵



For all ages



Not recommended
for children under 6



Not recommended
for children under 12



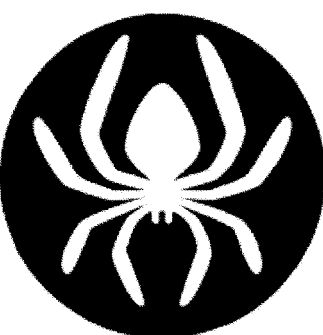
Not recommended
for children under 16



Violence



Sex

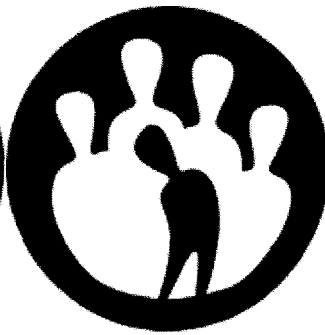


Fear

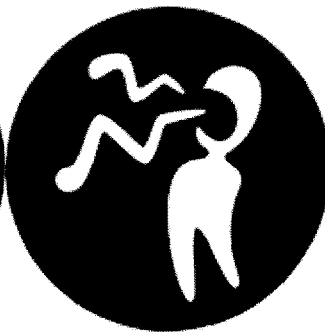
²⁵ Pertziniidou, E. and E. Machet (2003), 'Self-regulation of TV content with respect to protection of minors and violence', 17th EPRA Meeting, Naples, Italy, 8-9 May.



Drug and/or alcohol abuse



Discrimination



Coarse language

5.5. Using symbols: other considerations

Ideally symbols should be displayed for the duration of a programme, alerting channel hoppers of the content as they dip in and out of stations. Although such an approach is laudable, it is not necessarily possible. Arguments have been made that continual broadcast of symbols can damage television screens (CRT) and in particular, plasma screens. The effect is referred to as ‘burn-in’:

Simply put, burn-in is a damaged pixel, whose phosphors have been prematurely aged and therefore glow less intensely than those of surrounding pixels. The reason is that the damaged pixel has developed a “memory” of the color information that was repeatedly fed to it in a static manner over a long period of time. And that phosphor color information has actually become seared into the plasma-screen glass. Hence the term “burn-in”. Once these phosphors are damaged, they cannot give the same output as the other phosphors around them do. But pixels do not suffer burn-in singly. Burn-in occurs in the shape of a static image that persists on TV screens - - things like network logos, computer icons, Internet browser frames, etc.²⁶

When broadcast for a matter of seconds, the effect is negligible while long term broadcasting – for example, a station logo – can be extensive, even permanent.²⁷ Audio DVD menus have also been known to burn into the screen.

There is another factor to consider: people. Many viewers dislike logos and other information being displayed on their screen on a continual basis. Some are concerned about the damage. Others find them a nuisance, an annoying intrusion into their viewing.²⁸

²⁶ Burden, Jack (2004), *Plasma TV Screen Burn-In*, www.plasmatvbuyingguide.com/plasmatv/plasmatv-burnin.html.

²⁷ www.assg.org.au/plasma03.html.

²⁸ *Onscreen logos must die campaign*, www.homecinemachoice.com/cgi-bin/petition.php?viewlist=1.

5.6. A need for a universal framework?

As there is significant overlap between systems available, a concerted move towards standardisation might seem appropriate. This could create a situation that wherever one watched television, the classification would be instantly recognisable. Indeed this has been suggested on many occasions. Marianna Aletaria, for example, proffered the following system:²⁹

Table 5.11.
Suggestions for a universal classification system

K	The following programme is suitable for general viewing
12	The following programme is restricted to minors under 12
15	The following programme is restricted to minors under 15
18	The following programme is restricted to minors under 18
A	The following programme has intense sexual content

The feasibility of a universal framework has been discussed in a number of contributions to the public consultation of the *Television Without Frontiers* directive.³⁰ While agreed that there could be an EU system of common descriptive symbols, it was decided that actual classification had to remain the responsibility of member States.³¹ The reasoning applied is that ‘...content issues are essentially national in nature, being directly and closely connected to the cultural, social, democratic needs of a particular society; in line with the principle of subsidiary, therefore, content regulation is primarily the responsibility of member states...’³²

5.7. Displaying symbols

Technical advice is sometimes included in codes vis-à-vis the technical specifications for displaying classification symbols. In Australia, for example, symbols must be at least 32 television lines in height and should appear in a readily legible type face.³³ They must be displayed for at least three seconds at the following times:

- as close as practicable to the programme’s start;
- as soon as practicable after each break;
- in any promotion for the program.

²⁹ Aletari, n.pag.

³⁰ Commission of European Communities (2003), *Second evaluation report from the Commission to the Council and the European Parliament on the application of Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity*, 12 December, 15.

³¹ Commission of European Communities (2003), 15.

³² Commission of European Communities (1999b), *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – Principles and Guidelines for the Community’s Audiovisual Policy in the Digital Age*, 14 December, 14.

³³ Australian Broadcasting Authority (n.dat – a), *Content Regulation – Commercial television code of practice*, 10.

In doing so, a series of labels can be applied.³⁴ A sample approach is as follows:

Table 5.12.
Sample programme labels

Classification	Description
A	Adult themes or medical procedures
D	Drug use/references
H	Horror
L	Coarse language
N	Nudity
S	Sexual references/sex scenes
V	Violence

AGVOT has also issued specifications.³⁵ Here it provides the following information.³⁶

Table 5.13.
Technical specifications

Placement	The icons are to be used in the top left hand corner of the screen, inside the safe zone
Shape/height	They are to be a minimum of 52 scan lines tall, should be big enough to cover the US rating on programming which is fed to you with the American icons burned in. However, you will find there is some degree of inconsistency in the size of the US icons. Stations are advised to experiment to ensure your icons are big enough to cover the US rating syndicated shows fed to you from American distributors.
Density	The Canadian icons are to be 100% opaque, in order to fully cover any US rating symbols, therefore they do not require a linear keyer for operational use.
Colour	The icons are to be used in a black and white format.

5.8. The need for classification

This is a sample of classification systems. The question remains: why are such systems seen as necessary? According to the Conseil Supérieur de l'Audiovisuel (CSA),

The aim of certificate ratings is twofold: to heighten both the vigilance of the channels through the classification of

³⁴ ABA, 1.

³⁵ AGVOT, 8.

³⁶ See AGVOT for further information on, for example, icon use, protocols, advisories, etc.

each programme and the selection of an appropriate broadcasting time and that of parents, alerted by the presence of a pictogram during trailers, programmes covered by the press and during the broadcasting of the programmes themselves...It remains a basic instruction to ensure respect in television for the protection of children and adolescents.³⁷

In the age of digital, satellite transmission and filter systems, one must ask why such systems are included. In light of new technology, many believe they have been rendered unnecessary.³⁸ The need for classification, it is hereby argued, has never been greater. With the liberalising of attitudes, and access to a greater number of channels, children are becoming more exposed to material often unsuitable for their stage of development. There is therefore a need to alert parents to the content of programming in an attempt to keep offence and harm to a minimum. There is also a need to allow the elderly to make informed decisions regarding their viewing. With increasing numbers of stations broadcasting and hours broadcast, there is an onus on broadcasters to assume greater responsibility for on screen classifications and verbal warnings as appropriate. According to the BSC, 'Broadcasters have to fulfil the conflicting objectives of attracting audiences while simultaneously warning viewers or listeners that they may find a programme offensive. Providing as much clear information as possible in advance about the nature of programmes can often fulfil both of these objectives.'³⁹ Indeed Bush and Cantor maintain that 'Media ratings might exert a forbidden fruit effect on audiences.'⁴⁰

The Commission of the European Communities states that with advances in technology, it 'seems likely that filtering and blocking technologies will of necessity play a larger role in protecting minors from harmful audiovisual content in the future.'⁴¹ This in no way implies a reduction in broadcaster responsibility nor, indeed a reduction in the responsibilities of any other parties involved.' Accepting this to be true supports the notion of classifications, accurate pre-broadcast information and strengthens the role of parental guidance vis-à-vis family viewing. In the context of this report, ratings serve to enforce both a code produced and the watershed in existence.

5.9. Classification systems and warnings

It is generally agreed that warnings should accompany the display of a programme classification – before broadcast and/or after a commercial break. The *Television Without Frontiers* directive suggests an acoustic warning. This is not the approach taken by all, however. In Australia, for example, such advice must be both spoken and written and in the case of 'M' and 'MA', giving such warnings is mandatory. On screen warnings must be of a legible typeface and must remain visible for at least five seconds. The Federation of Australia Commercial Television Stations (FACTS) states that such a warning must take the following form:

³⁷ CSA, 7.

³⁸ Commission of European Communities (1999), 16.

³⁹ Broadcasting Standards Commission (n.dat), *Code on Standards*, 6.

⁴⁰ Bushman and Cantor, 135.

⁴¹ Commission of European Communities (1999), 16.

1. *Classification text*: The M symbol must be accompanied by the text: “Recommended for mature audiences”. The MA and AV symbol must be accompanied by the text: “Suitable only for mature audiences.”
2. *Consumer advice text*: The advice must specify one or more of the classification elements set out below. Where the frequency of classification elements is not indicated in the listed terms, the adjective “some” or “frequent” should be used (e.g. “some nudity”).
 - 2.1. *Language*
 - Some coarse language
 - Frequent coarse language
 - Very coarse language
 - Frequent very coarse language
 - 2.2. *Violence*
 - Some violence
 - Frequent violence
 - Strong violence
 - 2.3. *Sex*
 - Sexual references
 - Sex scenes
 - Strong sex scenes
 - 2.4. *Drugs*
 - Drug references
 - Drug use
 - 2.5. *Other*
 - Adult themes
 - Medical procedures
 - Horror
 - Nudity.⁴²

Warnings are also deemed necessary prior to the broadcast of certain news and current affairs programmes. Again such alerts are spoken and appear written. Scheduling is a consideration here. In this way, FACTS advises that ‘If, in a promotion for a program, a licensee includes advice that the program contains material which may seriously distress or seriously offend viewers, that advice must comply with every requirement for program promotions in the period in which it is broadcast.’⁴³ New Zealand takes this a step further. For this country, ‘warnings should be specific in nature while avoiding detail which may in itself distress or offend viewers.’⁴⁴

The need for warnings extends further than merely providing a precursor to content. According to the Commonwealth Broadcasting Association (CBA), ‘Advance

⁴² Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April, 16-17.

⁴³ FACTS, 18.

⁴⁴ Broadcasting Standards Authority, New Zealand (n.dat -a), *Free-to-air television code of broadcasting practice*, 2

warning means viewers can make their own choices about what they want to see and hear and any offence caused can be kept to a minimum. People are likely to respond less negatively to violent and distressing scenes if they have been alerted in advance.⁴⁵

5.10. Filtering devices

In discussing classification systems and warnings, the role filtering devices can, and do, play receives attention. Consequently, this section considers this topic. It begins by looking at the 'V-Chip' which is particular to Canada and the US before moving on to look at other methods of control.

5.10.1. V-Chip

The V-Chip is now present in the majority of American and Canadian television sets.⁴⁶ Essentially, it is designed to help parents filter television content viewed by their children. Each television set's V-Chip works differently, having been programmed by individual parents. The *TV Parental Guidelines* describes such programming as being 'as simple as following the set-up procedure which can be found in one of two places: 1) the television on-screen menu options, or 2) the written instruction guide included in the owner's manual.'⁴⁷ Programmes can be rated on an individual episode basis. Parents find information from a host of sources; for example, the newspaper listings, TV guide, on-screen display at the beginning of each programme and/or teletext information.⁴⁸ This forms the basis for programming individual television sets. In this way, 'The V-Chip reads information encoded in the rated program and blocks programs from the set based upon the rating selected by the parent.'⁴⁹ Referring specifically to violence, the CRTC has said

This technology enables violence and other rating codes to be embedded in the video signal of a program. A suitably-equipped television set or converter allows viewers to choose a threshold level of violence that they deem appropriate for their families. The technology ensures that any program with a rating above the level selected does not appear on-screen.⁵⁰

When programmed, the V-Chip can only be activated by the household and cannot be deactivated by the child. In addition, it does not deactivate if the set is turned off.

The scenario seems ideal but there are many drawbacks. Essentially, the V-Chip will only be activated if a person chooses to do so. Due to the mandatory status of the V-Chip in the US, for example, there is a high level of awareness but low take-up. The technology may exist, may be considered easy to access and apply but the majority of people choose not to do so. This is common of many countries experiences. In the

⁴⁵ Commonwealth Broadcasting Association (n.dat), *CBA Editorial Guidelines* – (draft), 16.

⁴⁶ 'V' in 'V-Chip' means 'viewer choice'.

⁴⁷ *TV Parental Guidelines*, 1.

⁴⁸ *TV Parental Guidelines*, 1.

⁴⁹ Federal Communications Commission (2003), *V-Chip: Viewing Television Responsibly*, 8 July, 1.

⁵⁰ CRTC, 1996 (14 March) *Policy on violence...* 17.

UK, for example, Pam Hanley discovered that ‘Less than half the people who *could* use these aids actually *were* using them.’⁵¹

Programming a V-Chip is not a foolproof solution. It requires accurate and up-to-date information with which to work. It requires familiarity with the specific rating systems which many people may not know or understand. In addition, it is believed that information provided by such a system is too scant by which to programme effectively. It operates according to age recommendations and ‘five very broad descriptive labels (violence, sexual situations, coarse or crude indecent language, suggestive dialogue and fantasy violence).’⁵² The DVB Regulatory Group views the V-Chip as having had only limited success: ‘V-Chip filtering is not fully reliable, sometimes blocking innocuous material while allowing inappropriate content to reach the screen. The device itself is also not altogether immune from tampering by clever children.’⁵³

Even with accurate information, easily accessible rating systems and a campaign to advertise how to use the V-Chip, it is not a viable option in the European context. Although support was voiced, ‘the introduction of a European V-Chip was rejected in the course of the reviews of the Directive Television Without Frontiers.’⁵⁴ It presupposes the use of a commonly agreed ratings system and for reasons outlined above, no such common ground exists. More importantly, there are technical considerations to take into account. According to the DVB Regulatory Group,

Europe cannot adopt V-Chip technology, because the VB1 field that carries rating information in North American broadcasts is not available. Some commentators have proposed development of a similar model, using the Teletext band or the wide Screen Signal to carry ratings signals and set-top boxes or software installed in television sets to interpret signals and carry out blocking. This model would raise various practical difficulties, such as signal corruption, erosion of filters through tampering, or use of VCR time-shifting. Moreover, as with the VB1 field used in North American filtering, teletext can carry relatively little information, and would thus effectively negate informed parental choice. Like the V-Chip, this system would implement a simple and restricted mode of filtration.⁵⁵

Digital television offers increased possibilities for regulation. More specifically, as digital technology develops and access to it expands, there is a chance to create ‘far more reliable, sophisticated and secure filtering systems.’⁵⁶ The V-Chip, while relevant to a discussion on control mechanisms, is unlikely therefore to be adopted in Europe.

⁵¹ Hanley, 29.

⁵² DVB Regulatory Group (2000), 13.

⁵³ DVB Regulatory Group, 13.

⁵⁴ EPRA (1998), 14-15 May, 5.

⁵⁵ DVB Regulatory Group, 13.

⁵⁶ Commission of the European Communities (1999), 3.

5.11. Other methods of control

Despite misgivings about the V-Chip, the belief is still held that ‘Blocking at the level of the family’s own machine offers the greatest potential user autonomy and diversity of implementation.’⁵⁷ This includes physical effort as well as technical devices. Consequently, reading ratings in television listings, monitoring your child’s viewing, introducing and enforcing rules vis-à-vis times when television can be watched and watching with your children often remain the best methods possible of vetting what small eyes see and small ears hear. The physical removal of the smart card can also prove effective in locking certain channels. The onus is still on the parents to act – supported by broadcasters and programme makers.

Technical devices are available in the European context to help with this vetting process.⁵⁸ In particular, the Electronic Programme Guides (EPGs) and Parental lock mechanisms are useful albeit both being restricted to digital. The EPGs can provide information to the viewer as required. They can include mechanisms for rating-based blocking of individual programmes and/or entire channels, operational with the use of a PIN number.⁵⁹ It is believed that these guides ‘will be able to decipher a wide range of information about programmes, including whether they contain material that could pose a problem for minors.’⁶⁰

Parental lock mechanisms can also be used. These involve the use of a PIN number to prevent access to specified channels. They can block out films of a particular rating and viewing at a particular time of the day.⁶¹

5.12. Concluding remarks

This is an overview of some classification systems and control mechanisms available. In most jurisdictions, it was seen that no single route was followed but a combination of approaches were applied. Although similarities were observed, reasons why no universal classification framework was deemed acceptable were considered. Technical devices, while laudable, were not always feasible and none considered could all problems solve.

In conclusion, it must be remembered that ‘...the technical availability of filter systems cannot, and should not, be a substitute for programming and provider responsibility of media enterprises and other providers.’⁶² Nor can they or any other methods of control absorb parental responsibility. Current levels of broadcaster responsibility must therefore be maintained and methods such as the watershed remain effective in this context.⁶³

⁵⁷ DVB Regulatory Group, p.51.

⁵⁸ See Appendix VII for a sample of possibilities.

⁵⁹ Hanley, 67

⁶⁰ EPRA (1998), 14-15 May, 8.

⁶¹ Hanley, 67.

⁶² European Parliament (2000), *Parental control of broadcasting*, A5-0258/2000, 1.

⁶³ Commission of the European Communities (1999), 3.

Part Three

Principal areas from codes dealing with issues of 'taste and decency'

Part Three

Principal areas from codes dealing with issues of ‘taste and decency’

Codes from eighteen individual broadcasters and regulators were analysed for the purposes of this report.¹ Many reasons explain why this approach was necessary. Primarily, it was important to view the experience of other countries and how they approach the sensitive issues of taste and decency in broadcasting. Secondly, it was important to consider the areas these codes include while noting areas that were not addressed – either because something was overlooked or because it was difficult to devise rules for certain areas. And thirdly, it was important to consider what areas were specified and consequently, dealt with. Doing so, sets parameters within which rules for taste and decency can be devised. While Section 19 of the *Broadcasting Act, 2001* states that a code on taste and decency should deal with violence and sexual conduct, it does not identify what else might be included in such a code. Drawing from the comparative analysis of other codes, it has been possible to draw up a list of areas other regulators address. Highlighting the key areas identifies the possible scope of such a code and facilitates discussion on whether the approach taken in Ireland should be all inclusive or narrow in application. Areas identified are as follow:

- Respect and dignity;
- Coarse language;
- Violence;
- Sex;
- News, current affairs and documentaries;
- Drugs, alcohol and imitative behaviour.

The approach taken in *Part Three* is systematic. Each area is identified and the reasons why material in each category might cause offence is highlighted. Individual factors to be taken into account in the formulation of a code have also been isolated. The approach is thematic rather than drawing on the specific experience of individual regulators and/or broadcasters at home or abroad.

¹ Codes were gathered from the Australia, Bosnia-Herzegovina, Canada, Estonia, Hong Kong, New Zealand, the United Kingdom, the Commonwealth Broadcasting Association (CBA) and Ireland. It should be noted that the CBA has 100 members in 50 countries (television and radio stations, both public and independent).

Areas specified above are general. They affect all consumers of broadcast media. While children are included in the general audience, there are additional issues particular to minors which must also be considered. Attention is given to such in the Chapter 12: 'Children and children's programming.'

Viewed collectively, the reader is provided with a broad overview of areas where regulators and/or broadcasters have introduced rules. *Part Three* demonstrates the sheer breadth of the area while providing a basis to discuss whether all areas should be included or the approach taken narrowed down.

6. Respect and dignity

6.1. Introduction

In discussing issues of taste and decency, three principal areas come to mind: coarse language, violence and sex. This study examines these, and more minor categories, in greater detail – outlining what each consists of and why it is believed to cause offence. This is the micro approach. On a broader level, it is important to look at the notion of respect and dignity which permeates the whole area that is taste and decency.

Chapter 6 looks at the principal areas which can be discussed under the banner of respect and dignity. The notion of responsible broadcasting is examined to show that programmes can inform, educate, provoke and entertain without doing so at the personal expense of an individual, group or groups. Personal sensibilities are therefore addressed in this section: (i) people with disabilities and mental health problems; (ii) cultural sensitivities and indigenous peoples; and (iii) religious sensibilities. Viewed collectively, these areas provide the basis to explain why people can be affected and how offence and/or harm might be avoided. It does not, however, outline exactly what causes offence as that is the stuff of later sections.

6.2. Responsibility of programme makers and broadcasters

Programme makers and broadcasters have a responsibility to the viewing public that, where possible, intentional harm and offence is not caused. Material made and transmitted should not single out any individual or group in a manner which is discriminatory. Programmes should not incite hatred but encourage respect and appreciation. Characters portrayed from ethnic and/or religious groups should not adopt ‘lazy’ stereotypes.¹ This extends further to include gender, age and sexual orientation. Such representations are often inaccurate and demeaning. And yet how can this be implemented? It has been advised that to avoid discrimination ‘programs should not use language or images in a way which is likely to disparage or discriminate against any person or section of the community on account of race, ethnicity, nationality, sex, marital or parental status, age, disability or illness, social or occupational status, sexual preference or any religious, cultural or political belief or

¹ Broadcasting Standards Commission (n.dat), *Code on Standards*, 11.

activity.’² This extract taken from the Australian Broadcasting Corporation’s Code of Practice concurs with discriminatory grounds outlined in Ireland’s *Equal Status Act, 2000*.³

If all material relating to these points were to be excluded from programming, television land would be a very dull place. There are many circumstances where such portrayals can be used but the emphasis must be placed on the adoption of a responsible approach. ‘Challenging or deliberately flouting the boundaries of taste in drama and comedy is a time-honoured tradition. Although these programmes have a special freedom, this does not give them unlimited licence to be cruel or to humiliate individuals or groups gratuitously.’⁴

Stereotyping can be offensive irrespective of what it is based on. Acknowledgment of different roles played by people based on different gender, age, race, religion or ethnicity is important. But does stereotyping have to be outlawed completely? According to the former Broadcasting Standards Commission (BSC) in the United Kingdom (UK),

There are times when racial or national stereotypes, whether physical or behavioural, may be used without offence in programmes, but their use and likely effect should always be from an informed stance and be considered well in advance. This applies to stereotypes of people from places, regions or nations within the United Kingdom.⁵

Encouraging a responsible attitude to broadcasting and programme creation does not all areas eliminate. Such a requirement does not extend to prevent the broadcast of material which: (i) is factual; (ii) is the expression of genuinely-held opinion in a news or current affairs programme; or (iii) is by way of legitimate humour, satire or drama.⁶ Care must always be taken vis-à-vis the possible effect on the minority concerned. In addition, the population as a whole must also be considered lest items broadcast precipitate negative changes in public attitudes.⁷

Legislation outside broadcasting Acts and European Directives has a marked effect. In its programme code, for example, the former Radio Authority in the UK drew attention to the British *Public Order Act, 1986*. Here it stated that this Act

makes it an offence to publish or distribute written material which is threatening, abusive or insulting, with an intention to start racial hatred or in circumstances where racial hatred is likely to be stirred up by such publication. The same prohibition applies to playing a recording of

² Australian Broadcasting Corporation (n.dat), *ABC Code of Practice*, 2.

³ For further information, see Chapter 1.

⁴ BSC, 6

⁵ BSC, 11.

⁶ Broadcasting Standards Authority, New Zealand (n.dat - a), *Radio Code*, 4; Broadcasting Standards Authority, New Zealand (n.dat - c), *Pay TV Code*, 7.

⁷ Radio Authority (2002), *News and Current Affairs and Programme Code*, 17-18.

sounds [on the radio] which are threatening, abusive or insulting, or including such material in a programme service.^{8,9}

* * * * *

Viewed collectively, points made can be accepted as referring to the population en masse. What then of the key groups where discrimination, negative stereotyping and thus, offence can occur?

6.3. People with disabilities or mental health problems

Television has the power to provoke debate and to inform its viewers. It is hoped that such commentary or discussion would not, however, result in insulting a constituent group or propagating myths which can stigmatise certain people. In programming, it is recommended that the person is seen first and that the disability or mental problems are not portrayed as a personal characteristic but as a condition. People with disabilities should not be presented as the sum total of their disabilities. Neither should they be seen as representative of all people with disabilities.¹⁰ The same can be said of those with mental health problems. The National Disability Authority (NDA), Ireland, argues that it is important to put the person first. Applying catch-all phrases does ‘not reflect the individuality, equality or dignity of people...’¹¹

Referring to people with disabilities, what approach can be adopted which might reduce occasions for offence? It has been suggested that efforts be made to avoid unnecessary stereotyping or any other type of parody which might stigmatise this group, portraying them as quite different from the community at large. To avoid stereotypes is to know them. The Federation of Australian Commercial Television Stations (FACTS) illustrates some of the most common stereotypes in this respect:

- Disability is a monumental tragedy;
- People with a disability are objects of pity or charity;
- If they do things like getting married and having children they are extraordinary;
- They lead boring, uneventful lives;
- Families of people with a disability are exceptionally heroic.¹²

FACTS also advises that ways should be devised ‘to change the emphasis from the disability itself to the individual or individuals concerned, from unduly emotional coverage to normal human empathy and interest, and from a focus on personal suffering to include the community’s response to the needs of people with disabilities.’¹³ The appropriate word usage should be checked with the relevant organisation to ensure that the potential to offend is kept to a minimum: for example,

⁸ Radio Authority (2000), 28.

⁹ See Appendix I for *Related legislation and legal documents* in the Irish context.

¹⁰ Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April, 43.

¹¹ NDA (2004), *Appropriate Terms to Use*, 1 March.

¹² FACTS, 43.

¹³ FACTS, 43.

‘has Down Syndrome’ and not ‘Mongol’, ‘has a physical disability’ and not ‘cripple’; ‘intellectually disabled’ or ‘has an intellectual disability’ and not ‘mentally retarded.’¹⁴ FACTS has drawn up a *Guide to Appropriate Language* to advise broadcasters regarding what is and is not permissible.¹⁵ Corresponding information is available from the National Disability Authority (NDA) in Ireland albeit not specifically aimed at broadcasters but the general public.¹⁶

Similar care should be taken when referring to people with mental health problems. Prejudice or patronising attitudes should not be encouraged. In addition, it is recognised as important that ‘when portraying acts of violence not to associate them uncritically with questions about the mental health of their perpetrators.’¹⁷ Appropriate descriptions and language must also be used here. ‘Has a psychiatric disability’ or if in hospital, is a ‘psychiatric patient’ and not ‘insane (also lunatic, mental patient, mentally diseased, neurotic, psychotic, schizophrenic, unsound mind, mad, demented, etc).’¹⁸

6.4. Cultural sensitivities and Indigenous peoples

Homogeneous societies are becoming rare in the modern world. Increased mobility between States has heralded a rise in the number of heterogeneous societies, where ethnic, linguistic and religious differences are now apparent. Many such countries can achieve stability where social cleavages cross-cut rather than being congruent. Patterns of stability then are aided by a general acceptance of difference and an acknowledgement of the value systems, customs and traditions of constituent groups. These observations refer both to new arrivals into the State as well as to age old differences which may exist, to Ireland in the 21st century and to the unique nature of Switzerland, for example.

People from outside the dominant groups should be treated with equal respect, regardless of their national, ethnic, linguistic background or religious beliefs. Parodies, prejudice and unwarranted generalisations should be kept to a minimum while greater respect for traditions and for differences can be promoted where possible. In Australia, certain recommendations have been made in this respect. Sensitivity should be given to language and images of non-English speaking or minority groups to avoid undue discrimination or offence. Religious and cultural beliefs should receive equal sensitivity and respect. In the depiction of modern day Australia, it is recommended that the mix of every day society be reflected in casting and reporting. In particular, broadcasters are advised to

- Avoid the unwanted introduction of race or ethnicity into a story, and particularly the unnecessary use of ethnic-specific labels in reporting on suspected or convicted criminals;
- Avoid references to the ethnic or racial origin of a person or group which imply that only people from English-speaking backgrounds are

¹⁴ FACTS, 44-45.

¹⁵ See Appendix V for the complete chart.

¹⁶ See Appendix VI for the complete chart.

¹⁷ BSC, 11.

¹⁸ FACTS, 45.

- Australian (e.g. do not automatically refer to an Australian of Chinese background as “a Chinese man”);
- Generally avoid outdated representations of how people from non-English speaking backgrounds speak English or behave.¹⁹

Other regulators, for example in Bosnia-Herzegovina and Hong Kong, have also made reference to this area. Covering similar aspects, both advise respect for diverse cultures and religions and a move away from promoting stereotypes and discrimination.²⁰

Observations of this ilk refer predominantly, albeit not exclusively, to groups huddling within the mainstream of society. What then of people who may find themselves on the outskirts? Many States have Indigenous peoples who, for whatever reason or historic circumstance, find themselves living adjacent to the principal social grouping. It is believed that special care should be given to respect the traditions and culture of such peoples and to encourage respect, not foster discrimination or insult.

Australia has issued guidelines regarding how Aboriginal and Torres Strait Islander people should be dealt with by the broadcast media.²¹ Respect and understanding are at the core of this approach, where positive images are supported and stereotyping is to be kept to a minimum. More specifically, it has been recommended that broadcasters ‘should not transmit material that:

- Is likely to incite or perpetuate hatred against;
 - Gratuitously vilifies;
 - Is likely to incite serious contempt for; or
 - Severely ridicules
- a person or groups of people, for the reason that they are indigenous Australians.’²²

Furthermore, it is stated that ‘A broadcaster should avoid prejudicial or belittling references to, or undue emphasis on, a person because of their Aboriginal or Torres Strait Islander status.’²³ All these emphasise what should be avoided. What then should be respected and encouraged? Broadcasters and programme makers are advised to respect and uphold the protocols of Indigenous people. In addition, it is recommended that ‘The positive portrayal of Indigenous people in programs and news media should ideally assist those communities to:

¹⁹ FACTS, 42.

²⁰ Independent Media Commission, Bosnia-Herzegovina (n.dat), *IMC Broadcasting Code of Practice* Article 1.1.; Broadcasting Authority, Hong Kong (2003), *Generic Code of Practice on Television Programming Standard*, 16.

²¹ Australian Broadcasting Authority (n.dat), *Content Regulation – Commercial television code of practice*; Australian Broadcasting Authority (n.dat), *Content Regulation – Community broadcasting radio codes of practice*; The Federation of Australian Radio Broadcasters Limited (2001), *Code of Practice & Guidelines*; FACTS (1999).

²² FARB, 4.

²³ FARB, 22.

- Maintain and pass on to their descendants their cultures and traditions; and
- Facilitate an understanding of Indigenous people's cultures among all Australians.²⁴

Engaging with representatives of the communities is also recommended. This would result in understanding and acknowledging different cultural practices and in particular, respect for Indigenous bereavement customs on reporting of people recently deceased and in depicting the bereaved. Such occasions necessitate obtaining permission from appropriate people within the community. Casting for drama should reflect the mix of people in the State, reflecting 'the place of the Aboriginal and Torres Strait Islander peoples in contemporary Australia.'²⁵ Appropriate language should be used to limit the incidence of offence: 'You should be careful not to use language which Indigenous peoples find offensive or discriminatory. This includes terms such as Full-blood, Half-caste, Part-Aboriginal, Walkabout and the use of "Aboriginal" except as an adjective (i.e. avoid reference to "an Aboriginal").'²⁶

Ireland has its own Indigenous people. Consequently, great emphasis has been placed on Australia's approach to outline points which may be relevant to the portrayal of Ireland's Traveller community. As an ethnic minority, it has its own customs, traditions and heritage. Travellers also communicate with each other in their own language – which is called 'cant' or 'gammon', sometimes referred to by academics as 'shelta'.²⁷ Similarly to Indigenous people in other countries, terms of reference are also important. The correct term is 'Traveller' and not 'Travelling' community. Appropriate words used to describe members of the community are 'Pavee', 'Traveller' or 'Mincir' (cant). 'Gypsy', 'Itinerant' or 'Tinker' are among the terms considered unacceptable.

6.5. Religious sensibilities

Religion is also a badge of identity. It can be linked to a different culture and ethnic background – in modern Ireland, for example, Russian Orthodox. Conversely, people can share linguistic and ethnic characteristics of the dominant population while belonging to a separate religious group; for example, Irish Protestants. Respect for religious differences is to be promoted and respect to be encouraged. What then might religious programming consist of? According to the Australian Broadcasting Corporation (ABC),

Religious programs include coverage, explanation, analysis, debate and reports about major religious traditions, indigenous religious traditions, indigenous religions, new and innovative spiritual movements as well as secular perspectives on religious issues. It does not promote any particular belief system or form of religious expression.²⁸

²⁴ FARB, 23.

²⁵ FACTS, 41.

²⁶ FACTS, 41.

²⁷ Pavee Point (n.dat), *Frequently Asked Questions*, www.paveepoint.ie/pav_faq_a.html.

²⁸ ABC (2003), *ABC Code of Practice*, 2-3.

Religion has proved contentious through the ages due to fervently held beliefs. What is accepted by one group may be unacceptable, and even unintelligible, to another. It is recommended for programme makers to be aware that religious themes can cause offence. For the Commonwealth Broadcasting Authority (CBA), ‘Deep offence will be caused by:

- profane references or disrespect, whether verbal or visual, directed at deities, scriptures, holy days and rituals which are at the heart of various religions e.g. the Crucifixion, Gospels, the Koran, the Hajj (annual pilgrimage to Mecca), the Holy season of Ramadan and the Jewish Sabbath and dietary laws.
- casual use of names considered holy by believers in expletives e.g. the use of “Jesus”, “Christ” or “God” or of names held holy by other faiths. The use of such expletives in drama or light entertainment causes distress far beyond their dramatic or humorous value.²⁹

Language is again of particular importance. Primarily, attention should be paid to using the appropriate words for different religious practices and special rites. More importantly, however, one must be aware that particular offence can be given by linking holy names with the strongest swearwords. Programme makers therefore ‘should be aware that the casual use of names, words or symbols regarded as sacred by believers can cause unnecessary offence. Moreover, while many people may not themselves be offended by the casual use of holy names as expletive, the majority would not wish to cause offence to others by this usage.’³⁰

People with disabilities should not be seen as the sum total of their disability. Equally, a person should not be defined by their religious beliefs. Most importantly, members of a religious group should not be portrayed as representative of the religion as a whole. ‘For example, footage of chanting crowds of Islamic activists should not be used to illustrate the whole Muslim world’ nor should those holding extreme views inconsistent with the majority in the religion be portrayed as representative.³¹

Religious broadcasting encompasses recognised groups and denominations. Cults or factions are usually not recognised. In addition, it is advised that broadcasters do not transmit ‘religious programming produced or provided by bodies or persons who practise or advocate illegal behaviour or whose rites or other forms of collective observance are not normally directly accessible to the general public.’³²

* * * * *

Ireland has undergone dramatic changes since the early 1990s. With the arrival of a new immigrant population, it is moving from being an homogeneous society of Caucasians and Catholics towards being a country which exhibits a growing number of ethnic, linguistic and religious cleavages. Recent societal changes have seen a decline in the number of Catholics practising and an increase in numbers attending,

²⁹ Commonwealth Broadcasting Association (n.dat), *CBA Editorial Guidelines* (draft), 14-15.

³⁰ BSC (n.dat), 7.

³¹ CBA, 212.

³² Radio Authority, 32.

for example, Protestant and Reformed Catholic churches. There has been a definite increase in the number of non-practising Catholics, agnostics and atheists. New people arriving into the State have often attached themselves to Protestant churches, deeming these most proximate to their former church in their country of origin. The Methodist Church has been one of the main beneficiaries. In 1981, its membership was 5,790, declining to 5,037 by 1991. The 2002 Census recorded a total membership of 10,033 – almost double the figure recorded 20 years earlier.³³ Religious diversity characterises Ireland’s increasingly complex social structure. It must, therefore, be acknowledged and catered for. The Commonwealth Broadcasting Association (CBA) recommends that in multi-cultural societies ‘religious programming should reflect a mix of faiths. But the broadcaster should not support any one religion over another nor provide a medium for one religion to denigrate another.’³⁴

6.6. Concluding remarks

People have the right to have their heritage, belief systems and other important elements of their lives safeguarded in media representations. Consequently, when dealing with people with disability and mental health conditions, with those who are different in terms of ethnicity, language, culture and religion, the approach taken should be responsible and balanced. Programmes produced – be they drama, humour, news and current affairs – should be accurate and fair. Above all, they should be dignified. Removing such subject matter from television programming does not all problems solve. These topics must be included to educate, to inform, to promote understanding and respect.

Society is in constant flux and as a result, what affects respect and dignity is not static. Observations and statements made in this section must be revisited at key junctures to reflect accurately the many aspects of contemporary society. Consultation with representative groups and the use of up-to-date statistical analysis will enhance this process.

³³ See Tables 13.3 and 13.4.

³⁴ CBA, 14.

7. Coarse language

7.1. Introduction

Coarse language on television is one of the most frequent sources of offence.¹ And yet, how can mere words have such impact? In answering that question, this chapter considers many aspects of coarse language, moving from broad to narrow considerations. Highlighting general categories of how words have been classified, it moves towards identifying specific culprits causing offence. Viewed as a whole, this chapter demonstrates why offence is never experienced in a uniform fashion even by members of the same group and identifies key factors explaining why this is so. It emphasises the importance of ‘context’, showing why people, even when offended, are reluctant to support editing of programme content. Above all, the shifting status of words, and the varying levels of offence experienced, shows how this is an area which needs constant review and changes made accordingly.

7.2. Defining language: the difficulties

Due to the breadth of this concept, definitions of offending language have not been forthcoming. In 1998, the Broadcasting Standards Commission (BSC) attempted to define ‘bad language’. Here it stated that ‘The term “bad language”, certainly as it is used by the [Broadcasting Standards] Commission, has a wide definition and includes swear words as well as the use of terms derived from religious origins.’² This mix of swear words with religious words is accepted for the purposes of this study. It is not confined to these two groupings, however, extending further to include words deemed derogatory to women, ethnic groups, the gay community and to disabled people. Consequently, this section focuses on language which causes offence and not on any particular social group.

How such language is referred to constantly differs. It can be referred to as ‘bad’, ‘coarse’, ‘strong’, ‘profane’ or ‘rough.’³ Compounding this situation is the fact that words causing offence today may be seen as acceptable tomorrow. ‘Bloody’ and ‘crap’, for example, while once a source of offence are now generally seen as

¹ RTÉ (2002), *Programme-Makers’ Guidelines*, n.pag.; BSC, BBC and ITC (2001), *Viewers and Family Viewing Policy*, report by Dr. R.C. Towler, 21.

² Broadcasting Standards Commission (1998), *Bad Language – what are the limits*, a report by A. Millwood Hargrave, 17.

³ For the purposes of clarity and consistency, ‘coarse language’ has been chosen.

acceptable prior to the watershed.⁴ Time can, therefore, dilute the severity of coarse language as this extract from the BSC in the United Kingdom (UK) demonstrates: ‘Language is never static; words acquire new meanings and interpretations, and levels of offence undergo constant change. The impact of particular words can differ between generations, as well as between different tones of voice.’⁵ The need to revisit language and to change the order of offensive words is highlighted thus.

7.3. Classifying language

The use of coarse language is expected in a number of situations. More specifically, it is anticipated in programmes which are deemed ‘adult’ – drama, film, comedy and documentaries, particularly those dealing with controversial subjects.⁶ Attempts have been made, however, to classify the type of language used. Here is an overview of categories emerging:

Profanities – ‘...words from religious origin used as expletives...or thought to belong to a particular group or culture (such as in rap music).

Stronger language – Sexual references, including crude words for genitalia...Often this...group was used in aggression or anger and that heightened their impact.’

Language directed at minority groupings – ‘The abuse of minorities belonged in its own category. The data show this to be an area of increasing offence. Abuse – and especially racial abuse – is at the very top of the scale of severity and was felt to be unacceptable in today’s society.’⁷

7.4. How does language cause offence?

Coarse language is offensive to many people and yet why do words cause such offence? A number of reasons can be proposed. Primarily, some people associate coarse language ‘with variables of aggression, vulgarity and an inability to express oneself in any other way.’⁸ For others, it is a result of declining community standards or poor upbringing.⁹ This explains people’s objections to the use of coarse language generally. It does not, however, explain succinctly why people see it as offensive when heard from broadcast media. In its *Programme-Makers’ Guidelines*, RTÉ suggests that

⁴ Advertising Standards Authority, British Broadcasting Corporation, Broadcasting Standards Commission and the Independent Television Commission (2000), *Delete expletives*, a report prepared by A. Millwood Hargrave, December, 29.

⁵ Broadcasting Standards Commission (n.dat.), *Code on Standards*, 7.

⁶ ASA, BBC, BSC and ITC, 29.

⁷ Based on information in ASA, BBC, BSC and ITC, 7.

⁸ ASA, BBC, BSC and ITC, 5.

⁹ ASA, BBC, BSC and ITC, 5.

Distress is most likely to be caused when strong language takes the audience by surprise or is contrary to the expectations of the audience or is felt to be gratuitous. The distress is greatest when such language is used at a time when children are likely to be viewing and listening unsupervised.¹⁰

A number of points are hereby presented. Firstly, coarse language offends audiences in general and secondly, children should be protected from hearing coarse language from broadcast media. Adult audiences are not uniform in composition, however. Gender and age affect how people perceive content with older people and women being very sensitive to the use of coarse language on television. In reference to swear words of religious or ethnic origin, 'Religious belief formed a stronger demarcation of attitude than the ethnicity of respondents.'¹¹ Indeed, it was found in a UK study that those 'who were church going also had a greater concern about children hearing "strong" language. This group had a great sensitivity to the use of profanities and especially disliked their use as expletives or as exclamations.'¹²

Referring to what constitutes blasphemy and how seriously it is viewed, the BBC stressed that 'it varies within and between different religions and cultures.'¹³ While blasphemy is a criminal offence in the UK, it should be noted that there has been no successful prosecution for blasphemy in Ireland since the 1850s.¹⁴

Research has suggested that gay people tend to be more open to swearing and offensive language on television programmes but more sensitive to words which mocked minorities. This is not surprising as 'Minorities are by definition vulnerable. The raw power of words can sometimes be more harmful than many people realise.'¹⁵ Age also played a part in attitudes observed in the gay community. Moreover, 'Age seemed to be a significant determinant of attitude, with older gay men more ambivalent towards the use of 'derogatory' and homophobic terms. The younger homosexuals were less willing to accept such usage.'¹⁶

Research has shown that persons with disabilities also exhibited mixed attitudes. Many were very aware of the offence which coarse and derogatory language causes, especially when used to highlight differences between people. Similarly to older gay men, however, it has been found that some disabled people 'accepted that offence was not always intended, but all respondents in this group thought television should not include such terms as part of entertainment.'¹⁷

Older people, women, people with religious and ethnic sensibilities, gay and disabled people are particularly sensitive to the use of coarse language. Children, as it has been seen, should be protected from it. And yet, what of the remainder of people who view

¹⁰ RTÉ, n.pag.

¹¹ ASA, BBC, BSC and ITC, 20.

¹² ASA, BBC, BSC and ITC, 20.

¹³ BBC (n.dat -h), *Producers' Guidelines – Taste and Decency*, 22.

¹⁴ www.mccannfitzgerald.ie/legal_briefing/litigation_arbitration/blasphemy.html.

¹⁵ BBC (n.dat -h), 23.

¹⁶ ASA, BBC, BSC and ITC, 21.

¹⁷ ASA, BBC, BSC and ITC, 21.

television? Research carried out by the BSC has shown that different reactions occur to the offence sex, violence and language can cause. Too much sex or intrusion into people's private lives, it was discovered, led to offence among two in every five people.¹⁸ In this instance, one sees that the use of coarse language on television offends many people. It does not, however, offend all people.

7.5. Main offenders

Having considered how coarse language has been described while addressing why it can cause people offence, one must ask what exactly causes such upset? In 2000, research in the UK addressed this concern and compiled a list of words which were deemed offensive. The words proposed are outlined in Table 7.1.

Table 7.1.
The ranking of swear words¹⁹

Ranking	Word
1.	Cunt
2.	Motherfucker
3.	Fuck
4.	Wanker
5.	Nigger
6.	Bastard
7.	Prick
8.	Bollocks
9.	Arseshole
10.	Paki
11.	Shag
12.	Whore
13.	Twat
14.	Piss off
15.	Spastic
16.	Slag
17.	Shit
18.	Dickhead
19.	Pissed off
20.	Arse
21.	Bugger
22.	Balls
23.	Jew
24.	Sodding
25.	Jesus Christ
26.	Crap
27.	Bloody
28.	God

This list combines swear words from different origins. Words suggested can be coded into a number of different categories which are summarised as follows:

¹⁸ Broadcasting Standards Commission (2000c), *Matters of Offence*, October, 5.

¹⁹ Based on information presented in ASA, BBC, BSC and ITC, 5.

- Serious;
- Genitalia;
- Sex and bodily/other;
- Words from a religious origin;
- Minority abuse: women;
- Minority abuse: gay/lesbian;
- Minority abuse: ethnicity/race;
- Gesture.²⁰

Information supplied shows that ‘cunt’, ‘motherfucker’ and ‘fuck’ are deemed the most offensive to the majority of people. Words of a religious and/or cultural nature, however, are lower in ranking. Derogatory words used to describe women hover around the middle.

7.6. Context

The most common use of coarse language on television has been found in instances demonstrating anger and frustration. This, it is believed, has remained stable over the years.²¹ And yet coarse language is not heard in isolation but forms part of the action/debate unfolding. Consequently, it has been discovered that ‘...much of the way in which the audience reacted to bad language on television was dependent upon the context in which viewing occurred...’²² Acceptance of words, therefore, must always be assessed according to the context in which they appear.²³ But what is ‘context’? It is believed to comprise of ‘a mixture of time of transmission, programme genre, storyline and characterisation...’²⁴

7.7. Editing out?

Acceptability of coarse language in an appropriate context affects how people view the editing out of such words. When asked, many people opt for clearer and stronger pre-transmission warnings and/or later transmission rather than editing or bleeping out of coarse language.²⁵ On this point, the BSC provided the following example: ‘When respondents were shown a clip from a documentary about Elton John in which he swore a lot, most thought it reflected badly on the man. They did not think, however, that it should have been edited in any way...’²⁶

Further BSC research substantiates this point. In its 1997 study, *Regulating for changing values*, it discovered ‘The majority of respondents felt that when a programme seemed likely to cause offence to some individuals, the potential offence should be toned down rather than edited. This was true whether the offence was

²⁰ Broadcasting Standards Commission (2000a), Briefing Update No.7 – *Content and Analysis*, 7.

²¹ Broadcasting Standards Commission (2000a), 7.

²² Broadcasting Standards Commission (1998b), *Bad Language – what are the limits*, a report by A. Millwood Hargrave, 9.

²³ Broadcasting Standards Commission (2000a), 7.

²⁴ Broadcasting Standards Commission (1998b), 9.

²⁵ Broadcasting Standards Commission (n.dat.), *Code on Standards*, 7.

²⁶ Broadcasting Standards Commission (1998b), 39 and 43.

political, religious or of a more general nature.’²⁷ Similar sentiments have been expressed in Ireland. One former Film Censor, Sheamus Smith, believed ‘that a film is a director’s work and he is the only one really entitled to cut it.’²⁸

7.8. Language and the watershed

The protection of children from coarse language is seen as paramount among many parents. While words such as ‘bloody’ or ‘crap’ are acceptable prior to the watershed, other words are not. The watershed denotes a change in the frequency of the words used but also in the type of sentiments expressed. It has been estimated that instances of coarse language are seven times more frequent after the watershed in the UK than before.²⁹ Changes in vocabulary were observed to show that ‘Most of the language used before 9.00pm were words from religious origin or words relating to sexual or bodily functions. After the watershed, language labelled as ‘serious’ and words referring to the genitalia are used frequently.’³⁰ There was greater acceptance of coarse language an hour after the watershed kicks in.

Frequency of use and the type of words used was met with a corresponding opinion of what was acceptable for children to hear. It was found, for example, that even though people might ‘consider a word or expletive ‘mild’, they rarely feel they can condone it within programming which children might be expected to see.’³¹ Programme scheduling was believed to act as a safeguard against exposure to swearing and coarse language. It was not foolproof, however, as some programmes slipped through the net. Chat shows, for example, were seen as particularly contentious as they often deal with inappropriate subject matter and contain unsuitable language.³² Not all children were deemed in need of protection, however. The older the child, the more equipped they were considered to deal with language which was often seen as a portrayal of real life. According to R.C. Towler, ‘It is generally accepted that children of 14 and over will hear swearing and offensive language at school and on the street, and for parents there is no issue about it being used in post-watershed television programmes, including the F-word.’³³

7.9. Concluding remarks

Information reviewed in this section highlights the fact that coarse language used in programming should be well judged, not gratuitous, unnecessarily cruel or designed to harm or humiliate a person or group. So what should broadcasters be aware of in this instance? Ofcom in the UK, advises that, in addition to editorial justification, broadcasters take into account the following:

²⁷ Broadcasting Standards Commission (1997), Research working paper: *Regulating for changing values*, 5.

²⁸ Rockett, K. (n.dat), *Irish Film Censorship – A Cultural Journey from Silent Cinema to Internet Pornography*, n.pag., www.ifco.ie.

²⁹ Broadcasting Standards Commission (1999b), *Monitoring Report 7*, 65.

³⁰ Broadcasting Standards Commission (2000a), 9.

³¹ Based on information presented in ASA, BBC, BSC and ITC, 29.

³² Based on information presented in ASA, BBC, BSC and ITC, 25-26.

³³ Broadcasting Standards Commission, British Broadcasting Corporation and Independent Television Commission (2001), *Viewers and Family Viewing Policy*, a report by Dr. R.C. Towler, 22.

- the individual impact of the particular swearword;
- the type of programme in which it appears. For example, in dramas and films, character and plot development may lessen the impact of such a phrase, whereas in a documentary, while a phrase can reflect the reality of a person or group, it may be less acceptable to the wider audience of viewers;
- the likely size and composition of audience;
- the audience expectation;
- the scheduling;
- whether information before or during the programme may lessen potential offence.³⁴

³⁴ Ofcom (2004), *Programme complaints bulletin – Standards & Fairness and Privacy*, Issue number 13, 12 July, 11.

8. Violence

8.1. Introduction

Of the three principal themes which emerge in issues of taste and decency – coarse language, violence and sex – violence causes most concern.¹ This chapter addresses why this is so. Outlining general understandings and classifications of violence, it moves on to consider why violence causes such offence. It breaks the umbrella term of ‘media violence’ into subcategories and outlines the individual characteristics which emerge.² The suggested link between media violence and violent behaviour is considered thereafter. The section concludes by looking at why violence should remain in programming and the responsibility this incurs for programme makers and broadcasters alike.

8.2. Understanding violence

Violence features in real life. Broadcast media mirror real life through factual and/or fictional representations. Violence will therefore be portrayed on radio and television. Accepting that violence happens in real life and its portrayal by broadcast media is inevitable does not translate, however, into overall acceptance of the violence as portrayed. It must therefore be acknowledged that other factors are at work. The intensity, manner of depiction and scheduling of violent content are important considerations, ones which influence how such scenes are received by the viewing public and the level of offence experienced.

Depicting violence on television will involve showing acts of physical force designed to inflict pain, injury and/or destruction on others, either directly or indirectly. This is a common understanding of what constitutes ‘violence’ among all types of people ‘but on the acceptability and enjoyment of violence, their views differ.’³

¹ Broadcasting Standards Commission (1999b), *Monitoring Report 7*, June, 27.

² Violence in news, current affairs and documentaries is considered separately in Chapter 10. Information reviewed here, therefore, refers to violent depictions in general programming.

³ Millwood Hargrave, A. (2003), *Violence and the Media: Integrated Project 2 – Responses to Violence in Everyday Life in a Democratic Society*, June, 17.

8.3. Classifying violence

Understanding what offends can be understood by considering how violence has been classified. Three broad classifications have been proposed:

Accidental violence – where violence is unintentional or caused by accidents or natural disasters.

Aggression – violence comprising the intentional (sizeable) destruction of inanimate objects.

Intentional interpersonal – where violence against people is intended.⁴

Many consider ‘intentional interpersonal’ to be the most serious and consequently, the most objectionable. Such classifications act as mere pointers, however, as they are too general to explain succinctly what exactly causes offence. Australia, for example, has been quite specific in identifying what it considers unacceptable:

Sustained, relished or excessively detailed acts of violence, unduly bloody or horrific depictions, strong violence that has high impact or which is gratuitous or exploitative or depiction of exploitative or non-consensual sexual relations as desirable.⁵

The Broadcasting Authority of Hong Kong proceeds along similar lines. It states that ‘Gratuitous or excessive depictions of violence, sadistic or other perverted practices, gore, pain or physical suffering are not acceptable. Callowness, or indifference, to suffering experienced by victims of violence should be avoided.’⁶ The former Independent Television Commission (ITC) in the United Kingdom (UK) moves this further along, identifying some of the contexts in which violent acts occur:

The ravages of natural disaster. Outrages committed by terrorists. War. Human conflict in fact and popular fiction. The antics of cartoon creatures. Body contact sports.⁷

Violent acts are therefore not similar. They are directed at different people and in different contexts.

8.4. Categories of violence

Violence can be further divided into two main categories: ‘physical violence’ and ‘mental violence’. According to the Broadcasting Authority of Hong Kong,

⁴ BBC, BSC and ITC (2002), Briefing update: *Depiction of violence on terrestrial television*, April, 2.

⁵ Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April, 15.

⁶ Broadcasting Authority, Hong Kong (2003), *Generic Code of Practice on Programme Standards*, 1 June, 20.

⁷ Independent Television Commission (2002), *Programme Code*, 47.

“physical” violence is conflict in which blows are exchanged, weapons are used or injuries or pain are inflicted by whatever means; “mental” violence in the form of persecution, bullying, intimidation, humiliation, cruelty or verbal aggression.⁸

For the viewer, these depictions can manifest themselves in a variety of ways. The following are provided as examples:

- act only;
- act and result;
- results only (injury and death);
- property damage;
- verbal threat;
- physical threat;
- implied;
- other.⁹

8.5. Audience reaction

It is not simply the portrayal which can be deemed offensive; it is the personal reaction to the violent act which is all important. Such reactions ‘may be strongly influenced by the emotions displayed by aggressors, victims and witnesses...’¹⁰ Research has suggested

that a primary definer of violence among audiences was the extent to which the violence was considered ‘fair’. This...was determined by the balance of power between protagonists, the extent to which a protagonist was helpless and whether or not a protagonist ‘deserved’ the violent actions they received.¹¹

The victim’s guilt or innocence can be a deciding factor vis-à-vis how much violence the viewer/listener accepts and how disturbing that violence is likely to be.¹² Judging that a victim deserves the action therefore might lead to a higher degree of violence being tolerated in any given programme.

The genre of the programme also affects how people react. Comedy or a humorous setting for a violent act may be construed as “taking the edge off” an unfair scene.¹³

Location is another key factor influencing how people react. According to the former Broadcasting Standards Commission (BSC) in the UK,

Viewers are most shocked when violence occurs in locations that are familiar to them and with which they can identify particularly if that violence ‘erupts’ and cannot be foreseen.

⁸ Broadcasting Authority, Hong Kong (2003), 20.

⁹ Broadcasting Standards Commission (2000a), Briefing update 7 – *Content and Analysis*, 4.

¹⁰ BBC, BSC and ITC, 10.

¹¹ Broadcasting Standards Commission (1998c), *Monitoring Report 6*, June, 76.

¹² Millwood Hargrave, 16.

¹³ BSC (1998c), 77.

The context of the violence, and the audience's ability to appreciate the conventions within which the drama is being played out, are key considerations.¹⁴

Familiarity with types of violence plays an important role. This is said to generate more concern among some audiences due to its proximity to their own experience.¹⁵

Extra dimensions can intensify the impact of the violence viewed. More specifically, 'the use of serious bad language, gore or sadism, [affect] the violence 'loading' of a scene; that is, how violent the audience actually would think the violence to be.'¹⁶ It should also be noted that violence in factual programmes has often more impact on the viewer than fictitious violence.¹⁷

8.6. Subcategories of media violence

Media violence can be broken into subcategories. Here one is dealing with the portrayal of violence against certain social groups, animals and its depiction of criminal activities and lifestyles. These subcategories are identified as follows:

- violence against women;
- sexual violence/rape;
- violence against children;
- violence against specific groups;
- violence against animals;
- violence in sports programming;
- criminal activities and lifestyles.

Considering individual categories provides greater insight into what causes offence. Throughout, the importance of context is highlighted.

8.6.1. Violence against women

Broadcasters are often asked to apply caution to portrayals of violence against women. It is considered inappropriate to sanction, promote or glamorise such actions. An example of guidelines to producers suggests that 'Violence against women in drama should not encourage the notion that women are to be exploited or degraded through violence or are other than exceptionally willing victims of violence.'¹⁸

Context is all important. Many themes need to be investigated – for example, how women can be victims of violence and how sex and violence may be linked. It is recommended that 'Violence against women should not be portrayed as an erotic experience. Where in rare cases, a link between violence and sexual gratification is explored as a serious theme in drama, any depiction must be justified by its context and not designed simply to arouse.'¹⁹

¹⁴ Broadcasting Standards Commission (n.dat), *Code on Standards*, June, 11.

¹⁵ BBC (n.dat-h), *Producers' Guidelines – Taste and Decency*, 24.

¹⁶ Broadcasting Standards Commission (1998c), 77.

¹⁷ Millwood Hargrave, 17.

¹⁸ BBC, 26.

¹⁹ BBC, 27.

8.6.2. *Sexual violence/rape*

Sexual violence and rape are sensitive areas of programming, where the manner of portrayal must be handled carefully, where the inclusion of such scenes is always to be justified by the storyline. Programmes depicting rape or featuring sexual violence should not sensationalise the act nor be designed to titillate the audience. ‘Non-consenting sexual relations should not be presented as desirable’ and rape should be portrayed as an act of violence, not as a sexual act.²⁰ Explicit details of the act should be kept to a minimum to avoid the possibility of imitative behaviour.

8.6.3. *Violence against children*

Extreme caution should be applied when dealing with episodes of violence against children. Being sensitive to the subject matter is not enough. Particular attention should be paid to how such images might be received by the viewing public. More specifically,

Where a play or film takes incest or child abuse as its theme, there should be particular awareness of the relative ease with which some people, including children, may identify characters or actions with their own circumstances/experience. In television, material of this kind should be accompanied by clear warnings of the programme’s content, while sensitive scheduling and labelling are also called for in radio.²¹

8.6.4. *Violence against specific groups*

Depictions of violence and/or abusive behaviour directed at specific groupings must be handled with care. Programmes carrying such themes should not promote, sanction, glamorise or condone this type of violence. Similarly to other categories of violence, this one carries a large degree of social responsibility. While such portrayals of violence may be justified by plot line, no programme broadcast should stimulate violence against a group in real life. Representations of this ilk should not incite violence against specific groups ‘identified by race, national or ethnic origin, colour, religion, gender, sexual orientation, age, mental or physical disabilities...’²² According to the ITC, racist terms should also be avoided together with insensitive comments or stereotyped portrayals that might cause offence.²³

8.6.5. *Violence against animals*

Violent acts against animals should be kept to a minimum. Images of cruelty to animals are particularly distressing to many viewers – ‘even when no harm comes to the animals during production.’²⁴ Consequently, where such depictions are deemed necessary, explicit details should not be given. It is also advised that the action should not be dwelt upon. It is recommended that ‘The use of animals in violent acts, consistent with plot and character delineation, should conform with accepted standards of humane treatment. It may also be helpful to indicate that no harm was caused to the animals in an announcement at the start of the programme.’²⁵

²⁰ Broadcasting Authority, Hong Kong (2003), 18.

²¹ BSC, 15.

²² Broadcasting Authority, Hong Kong (2003), 20.

²³ Independent Television Commission (2002), *Programme Code*, January, 11.

²⁴ BSC, 16.

²⁵ Broadcasting Authority, Hong Kong (2003), 20-1.

8.6.6. *Violence in sports programming*

Caution should be applied to violence occurring in sports programmes. It has been advised that broadcasters should not promote or exploit violent action ‘which is outside the sanctioned activity of the sport in question.’²⁶ Episodes of this type should not be repeated in a gratuitous fashion. In addition, sports announcers and commentators ‘should avoid making comments which appear to approve of, or glamorise, any dangerous or violent behaviour, on or off the field, that is not in accordance with the rules of the particular sport.’²⁷

8.6.7. *Criminal activities*

Criminal activities should not be sanctioned, glamorised or presented as acceptable behaviour. Once again, this category carries a large degree of social responsibility. In particular, details of act and method should be kept to a minimum: ‘The presentation of criminal techniques, or police techniques of crime prevention and detection, in such a way as to be instructional or invite imitation should also be avoided. Depictions containing detailed instructions for, or illustrations of, the use of illegal drugs, arms, devices or weapons are not permitted.’²⁸

8.7. Media violence and violent behaviour

Many people believe media violence influences behaviour. Such supposition, however, has not been proven to any conclusive degree. Andrea Millwood Hargrave noted that approximately seventy five per cent of adults in America made this connection albeit the fact that ‘they are also consumers of the very programmes that raise their concerns.’²⁹ She continued: ‘The concern...emanates from the fear that many have: that, while they themselves are perfectly capable of watching (and indeed enjoying) violence on television without it causing them to change their behaviour, others in society are not, and need to be protected from violence on television.’³⁰

Although a direct link between media violence and violent behaviour cannot be proven, theories abound. What follows is a taste of theories on offer:

Desensitisation – that the repeated viewing of violent material may desensitise the viewer to real life violence.

Behavioural effects – the encouragement of aggressive responses by watching violent material.

Catharsis – the displacement or release of aggressive tendencies through viewing violent material.

²⁶ Canadian Association of Broadcasters (n.dat), *Voluntary Code Regarding Violence in Television Programming*.

²⁷ Broadcasting Standards Authority, New Zealand (n.dat.), *Free-to-Air television code of broadcasting practice*, 8.

²⁸ Broadcasting Authority, Hong Kong (2003), 11.

²⁹ Millwood Hargrave, 5.

³⁰ Millwood Hargrave, 5.

Cultivation effects – watching a lot of television can lead people to develop a distorted view of the world, for instance, becoming fearful of the world around them.³¹

What effect media violence may have on an audience is impossible to calculate. It depends on the person, their environment, personal experiences, age, gender among a whole range of factors as ‘people do not view violence in a social vacuum.’³² Family environment is considered to be the more important determinant of violent behaviour than the media. ‘This is not to say that respondents do not see the media as having an influence. What they say is that the media are not the prime reason for anti-social (as violence is) behaviour.’³³

8.8. Concluding remarks

If violence causes a large degree of offence, and has the potential to influence behaviour, why not remove it altogether from broadcast media? To do so, however, is to filter how real life is portrayed on radio and television. Including violent action, however distasteful, plays a significant role in modern day programming. According to the ITC,

To seek to stop broadcasting from telling and retelling hard truths about the world would be a substantial disservice both to democracy and to our understanding of the human condition. The portrayal of violence has played a major part in popular storytelling throughout human history, and continues to have a place in the civilising process of which broadcasting is part.³⁴

Portraying and reporting on violence in the media is set to continue. It can do so effectively once certain boundaries are observed and safeguards are respected. Responsibility of programme makers and broadcasters is thus paramount so that violent portrayals are representative, supported by plot or justified by context and in no way gratuitous. As the former Radio Authority in the UK contended, ‘The degree of violence portrayed or described must be essential to the integrity and completeness of the item.’³⁵ Above all, what is broadcast on television should not promote illegal or anti-social behaviour in real life.

Scheduling is an important consideration where programme matter is matched to target audience. The time of transmission must be appropriate and broadcasters must take into account what programmes are transmitted adjacent to a programme with violent content. Moreover, broadcasters ‘should be mindful of the cumulative effect of violent incidents and themes and should avoid any impression that violence is dominating a single programme, a programme series or a line up of programmes

³¹ Millwood Hargrave, 11.

³² Millwood Hargrave, 17.

³³ Millwood Hargrave, 15.

³⁴ ITC, 47.

³⁵ Radio Authority, UK (2002), *News and Current Affairs Code and Programme Code*, January, 18.

screened back to back.’³⁶ Effort should be made therefore not to ‘bunch’ together programmes featuring violent episodes.

* * * * *

The portrayal of violence must always be appropriate to the context, scheduling, channel and to audience expectations. In so doing, one must acknowledge that there continues ‘to be strong agreement that people should be allowed watch what they like on television alongside expectations about control of violence on television.’³⁷

³⁶ Broadcasting Standards Authority, New Zealand (n.dat - a), *Free-to-air television code of broadcasting practice*, 8.

³⁷ Australian Broadcasting Authority (2003), *Research into Community Attitudes to Violence on Free-to-Air Television*, March, iii.

9. Sex

9.1. Introduction

According to the BBC, 'The portrayal and depiction of sex will always be a part of both drama and factual programmes because of the important part it plays in most people's emotions and experience.'¹ Accepting this, and acknowledging that attitudes towards sex have shifted in recent years, sex remains one of the principal areas causing offence.

This chapter outlines what are considered to be sexual portrayals, occasions of nudity and related matters. It identifies actors and considers subcategories therein. It addresses the position of sex vis-à-vis the watershed in other countries and concludes with suggestions of when sex is deemed acceptable on mainstream broadcast media and the safeguards which might apply.²

9.2. Defining 'sex' and 'nudity'

Sexual activity and nudity on television cover a wide range of acts and depictions. And yet, can one be more specific? In Australia, for example, it has been determined that:

Sex included all references to sexual aids, desire for sex, boasting about sex and serious discussions including references to rape and sexual abuse in addition to sexual acts and simulated sexual activity.

Nudity – included all references to nakedness and sexual body parts in addition to full and partial nudity.³

This provides a basic view vis-à-vis the acts and images which are presented on television. If these are the acts, who then are the actors?

¹ BBC (n.dat – h), *Producers' Guidelines – Taste and Decency*, 22.

² This section does not deal with pay-per-view television or subscriber television. Reference to sex, unless otherwise stated, refers to television programming and not radio in this instance.

³ Broadcasting Standards Commission (1999b), *Monitoring Report 7*, 84.

9.3. Principal focus

In general, material reviewed refers to relations between consenting heterosexual adults. What then of same sex couples and gay sex? The BBC has noted a liberalising of attitudes towards sexual matters generally, gay couples in particular, in recent years. Acknowledging this not to be a global trend, however, it does advise that ‘programme makers should be mindful that a significant part of the audience is critical of any depiction of homosexual acts.’⁴ The former Broadcasting Standards Commission (BSC) in the United Kingdom (UK) echoed these sentiments: ‘Audiences in Britain have generally become more liberal and relaxed about the portrayal of sex, but broadcasters cannot assume a universal climate of tolerance towards sexually explicit material.’⁵ Consequently, the main depiction of sex and nudity remains predominantly heterosexual in approach, representation and ethos.

9.4. Sexual activity

Sex in programming has been divided into a number of categories. The main ones are as follows:

- sexualised kissing;
- pre-coital implied sex act;
- post-coital implied sex act;
- simulated sex act;
- implied sex act;
- other.⁶

Context plays an important part, determining how viewers receive, interpret and accept the sexual act as depicted. It is believed that sexual portrayals happen in a variety of liaisons. The following shows how material has been assigned to particular categories:

- married;
- established non-married relationship;
- extra-marital sex for male;
- extra-marital sex for female;
- extra-marital sex for both male and female;
- first time meeting, pick-up by male;
- first time meeting, pick-up by female;
- first time meeting, pick up mutual;
- rape, attempted rape, abuse;
- previous relationships which become sexual.⁷

9.4.1. Kissing

Kissing also features in references to sexual activity. Categories have been devised in the monitoring of programmes and these include:

⁴ BBC, 23.

⁵ Broadcasting Standards Commission (n.dat), *Code on Standards*, 17.

⁶ Broadcasting Standards Commission (2000a), Briefing update 7 – *Content and Analysis*, 13.

⁷ BSC (1999b), 84.

- kissing (mild);
- kissing (arousal);
- total kissing;
- implied;
- pre-coital;
- post-coital;
- sex act;
- other.⁸

A big difference is perceived between mild kissing and arousal kissing. Similarly to episodes of sexual activity, scenes of kissing were witnessed mainly within established relationships.⁹

9.4.2. *Sexual activity and the watershed.*

There is a steady rise of sexual activity depicted post watershed. Research has revealed that sexual activity is twice as frequent in post watershed when compared to pre-watershed programming.¹⁰ Not only was the frequency of the appearance different, so too was the nature and context of the activity. When occurring pre-watershed, sexual activity was more likely to be set in established relationships than after the watershed. In addition, ‘Programmes starting earlier consistently portrayed milder sexual activity...’ while ‘Simulated intercourse occurred in post-watershed factual and film output only.’¹¹ Most scenes of sexual activity, however, can be classified as mild, usually involving kissing.

9.5. **Nudity**

Similarly to sex, nudity is a reflection of real life. It is believed that ‘The appearance of the nude human body can be a legitimate element in a programme, provided it does not exploit the nude person and there is a clear editorial rationale.’¹² And yet, is one talking about full or partial nudity?

Certain areas are categorised for the monitoring of programming. These categories are

- female buttocks;
- female breasts;
- female groin only;
- female full frontal;
- male buttocks;
- male groin.¹³

While nudity can feature infrequently across all programme types, it is said to be more likely in certain genres. Recent research in the UK reveals that ‘The most

⁸ BBC, BSC and ITC (2003a), Briefing update: *Depiction of sexual activity and nudity on television 2002*, July, 1.

⁹ BBC, BSC and ITC (2003b), Press Release: *Depiction of sexual activity and nudity on television 2002*, 26 August, 1.

¹⁰ BSC (1999b), 78.

¹¹ BSC (1999b), 79 and 81.

¹² BSC (n.dat), 18.

¹³ BBC, BSC and ITC (2003a), 5.

frequent contexts are adult entertainment (23%) and programmes about pornography (23%).¹⁴ It continued on to say that nudity ‘occurred most frequently...in factual programmes (which contained 60% of all scenes notes) and in films (22% of all scenes).’¹⁵ Nudity, it is believed, is far less frequent in news, soap operas, comedy and drama programmes.¹⁶

9.5.1. *Nudity and the watershed*

Similarly to portrayals of sexual activity, episodes of nudity are found predominantly post-watershed. In the UK, a study observed from programmes monitored that ‘Only 1% of all pre-watershed programmes contained any scenes of nudity (2% of all scenes of nudity), compared with 14% of all post-watershed programmes which contained 98% of all nudity scenes.’¹⁷ It is estimated that nudity is ‘six times more frequent in post-watershed programmes.’¹⁸

9.6. **Unacceptable sexual activities and depictions**

In general, it is believed that detailed genital nudity in a sexual context, or explicit depictions of sexual acts, is unacceptable programme content.¹⁹ Non-consensual sex and rape must be handled with care, justified only by context of storyline or debate and not to titillate. Explicit or gratuitous depiction of sexual violence should be prohibited.²⁰ It is also recommended that care be applied to stereotyping of women and men and to their behaviour.²¹ According to the BSC,

Broadcasters have a duty to act responsibly and reflect the fact that relationships within and between the sexes normally reflect moral choices. Audiences should not be reduced to voyeurs, nor the participants to objects. There is an important distinction between titillation and dehumanising objectification. Editorial judgement must be exercised when there is any association of sex with restraint, pain or humiliation, especially if this is non-consensual.²²

Sexual conduct between adults and children is not acceptable. Laws governing child protection apply.²³ Such sentiments are mirrored by RTÉ when it says that ‘Sexual activity between adults and children should not be broadcast.’²⁴

¹⁴ BBC, BSC and ITC (2003a), 5.

¹⁵ BBC, BSC and ITC (2003a), 5.

¹⁶ BBC, BSC and ITC (2003a), 5.

¹⁷ BBC, BSC and ITC (2003a), 6.

¹⁸ BSC (1999b), 90.

¹⁹ Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April, 15

²⁰ Broadcasting Authority, Hong Kong (2003), 17.

²¹ BBC, 23.

²² BSC (n.dat), 17.

²³ BBC, 23.

²⁴ RTÉ, *Programme-Makers’ Guidelines*, n.pag.

9.7. Sexual innuendo.

Caution applied to sex on mainstream television should also apply to sexual innuendo, to indirect or subtle references which can be construed by some as offensive and/or rude. This is particularly true where children and young people are watching as 'Parents have a sense that sexual innuendo, if not explicit sexual content, pervades most programming, and as such is hard to avoid.'²⁵ The BBC has advised its staff that

Although what is said or acted out is implied rather than explicit, the producer's obligation to make judgments about taste and decency remain. Material should be appropriate to the programme's place in the schedule and judgements should be sensitive to the listening or viewing audience.²⁶

9.8. Dealing with sexual activity and related matters

It is argued that sexual activity is linked to moral decisions and so it is incorrect to separate it from an acknowledgement of that process.²⁷ Representation of sexual activity on television is deemed acceptable once certain criteria have been observed, most prominent of which are careful scheduling and appropriate labelling.

Certain approaches have been suggested in the handling of such material. The BBC, for example, direct their producers to apply basic rules to all programmes dealing with sexual activity. These rules are that

- programmes should be adequately and clearly signposted;
- scenes should have a clear and legitimate editorial purpose and not be gratuitous;
- sexually explicit material will not appear before the watershed, nor at inappropriate times too close to the watershed;
- there are limits to explicit portrayal at any time;
- material involving sexual violence or sadism will be treated with particular care and circumspection.²⁸

The Australian Broadcasting Corporation (ABC) issues similar guidelines. Here it states that provided it is handled with integrity, 'any of the following treatments of sex and sexuality may be appropriate and necessary to a program':

- it can be discussed and reported in the context of news, information or documentary programs;
- it can be referred to in drama, comedy, lyrics or fictional programs; and
- it can be depicted, implicitly or explicitly.²⁹

²⁵ BSC, BBC and ITC (2001), *Viewers and Family Viewing Policy*, report by R.C. Towler, September, 18.

²⁶ BBC, 23.

²⁷ BBC, 22.

²⁸ BBC, 23.

²⁹ Australian Broadcasting Corporation (2003), *ABC Code of Practice*, 2.

9.9. Concluding remarks

Similarly to violence, sex and nudity on television are a reflection of human life. Equally so they play a significant part in storytelling, their absence would be notable and would affect the quality and realism of the programme transmitted. To enhance enjoyment and/or to provoke appropriate debate, the use and representation of such images should be in keeping with the subject matter of the programme in question. They should not be exploitative or gratuitous. Attention must be paid to the target audience and time of scheduling in determining the level of sex and nudity contained in any given programme. And where such occurs, appropriate warnings and labelling should accompany the broadcast, thus allowing the viewer to decide if he wishes to watch further.

10. News, current affairs and documentaries

10.1. Introduction

Distressing material features in news, current affairs and documentaries. While violent depictions are common, other key material includes war, political unrest, famine, illness, explaining new medical procedures, death and suicide. The potential to upset the viewer is thus great.

Aspects particular to news, current affairs and documentaries are addressed in this chapter. Guidelines for the coverage of such sensitive areas as death and suicide are considered. While acknowledging that particular material can, and does, cause offence, this chapter concludes that it is important to adopt a responsible attitude and thus, to retain such information rather than sanitize news and current affairs programming entirely.

10.2. Context and justification

Factual reportage carries a great sense of responsibility for programme makers and broadcasters alike. The immediacy of events requires quick response and specialised judgment. More specifically,

Television's ability to show events throughout the world almost instantaneously brings responsibilities. The volume of harrowing and distressing material now available to newsrooms could dominate news programmes if not well handled. A bulletin needs to be considered as a whole, for its total impact on the audience, and not simply as a series of isolated stories.¹

Particular care should be taken in many instances. Examples can be provided as follows:

¹ BBC (n.dat - h), *Producers' Guidelines – Taste and Decency*, 25.

- the nature of depiction;
- editorial justification and context;
- sexual violence;
- glamorising certain lifestyles; and
- promotion of techniques.

10.2.1. Nature of depiction

The nature of depiction refers to attempts to inform rather than to sensationalise events or to glamorise certain acts. Factual reporting should not be gratuitous or cause unnecessary shock and alarm. According to the BBC,

There is a balance to be struck between the demands of truth and the danger of desensitising people. With some news stories, a sense of shock is part of a full understanding of what has happened. However, the more often viewers are shocked, the more it will take to shock them.²

10.2.2. Editorial justification and context

By its very nature, factual material can shock and repulse viewers and/or listeners. Inclusion of material must therefore be editorially justified and within the overall context of the piece. More specifically, broadcasters ‘shall use appropriate editorial judgement in the reporting of, and the pictorial representation of violence, aggression or destruction with their news and public affairs programming.’³ Appropriate attention to detail must also be applied. Natural sounds or back tracks used should not cause additional distress.⁴

10.2.3. Sexual violence

On all occasions, material depicting or reporting on sexual violence should be handled with the utmost care and sensitivity. When such material appears in news, current affairs or documentaries, the approach taken should be respectful – emphasising the need to inform and not to exploit or titillate. Above all, it should be presented without exploitation.⁵ Reporting on child abuse and cases of incest carries additional responsibilities. Clear warnings should be made prior to transmission of such reports. Careful use of the word ‘incest’ must occur as it can identify, rather than shield, involved parties.⁶

10.2.4. Glamorising certain lifestyles

Similarly to the section on ‘Violence’, lifestyles of criminals should not be glamorised. Information reviewed should not depict this as a lifestyle choice or portray it in a fashion which might attract people to it. In particular, the actions of criminals must not be condoned.

² BBC, 25.

³ Canadian Association of Broadcasters (n.dat), *Voluntary Code Regarding Violence in Television Programming*, n.pag.

⁴ Broadcasting Standards Commission (n.dat), *Code on Standards*, 13.

⁵ BSC, 14.

⁶ Ofcom (2004), Summary: *Consultation on the proposed Ofcom Broadcasting Code*, 12.

10.2.5. Promotion of techniques

Techniques used in acts of violence and torture should not be shown in any great detail. Ultimately, this is to avoid imitation. According to the Broadcasting Standards Authority (BSA) in New Zealand, ‘Ingenious devices for, and unfamiliar methods of, inflicting pain, injury or death, particularly if readily capable of easy imitation, should not be shown, except in exceptional circumstances which are in the public interest.’⁷ Furthermore, the former Radio Authority in the United Kingdom (UK) believed that

In programming dealing with criminal activities, there may be conflict between the demands of accurate realism and the risk of unintentionally assisting the criminally inclined. A public-spirited warning to listeners [of radio and viewers of television] against novel or ingenious criminal methods, for example, may defeat its own aims by giving those methods wider currency than they might otherwise have.⁸

A responsible and cautious approach must therefore be applied. Similar caution is needed in the representation of police techniques of crime prevention and detection.⁹

* * * * *

As with so many other areas, a responsible approach is advised when dealing with sensitive material. In Canada, for example, broadcasters are advised to warn ‘viewers in advance of showing scenes of extra ordinary violence, or graphic reporting on delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates when children could be viewing.’¹⁰ Warnings should also be given within programmes – especially news and current affairs - as appropriate.

10.3. Rules of decency

Rules of decency relevant in other areas apply here. More specifically, in transmitting news and current affairs programmes, broadcasters ‘must not portray any person or group of persons in a negative light by placing gratuitous emphasis on age, colour, gender, national or ethnic origin, physical or mental disability, race, religion or sexual preference.’ Exceptions are made, however. It is considered acceptable that ‘where it is in the public interest, [broadcasters] may report events and broadcast comments in which such matters are raised.’¹¹ It is also considered acceptable to mention such aspects when they have particular value to a news item. It is recommended, however, that ‘Information and speculation about an individual’s mental or physical health shall not be disseminated unless the individual is willing or in the public interest.’¹²

⁷ Broadcasting Standards Authority, New Zealand (n.dat - a), *Free-to-Air television code of broadcasting practice*, 3.

⁸ Radio Authority (2002), *News and Current Affairs and Programme Code*, 24.

⁹ Radio Authority, 24.

¹⁰ CAB, n.pag.

¹¹ Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, 24.

¹² Estonian Press Council (n.dat), *The Code of the Estonian Press Council*, 2.

10.4. Areas particular to news, current affairs and documentaries

While broad assumptions can be made, there are aspects specific to news, current affairs and documentaries which need to be addressed. These aspects are outlined as follows:

- news flashes;
- news and the watershed;
- balance of coverage;
- re-enactments;
- additional responsibility in coverage;
- use of archival material;
- use of amateur footage.

10.4.1. News flashes

News flashes are not scheduled transmissions. Instead they are designed to provide a news burst informing viewers of important news and/or developments. They contain, therefore, an element of surprise. They should contain sufficient detail to allow the viewer and/or listener to understand what is going on and not so little as to cause unnecessary alarm and panic. In addition, care should 'be exercised in the selection of sounds and images used in news flashes and consideration given the likely composition of the audience.'¹³

News flashes are necessitated by developments and, therefore, are not, and cannot be, scheduled programming. As a result, they can appear during children's programmes on television. There is an importance of informing without causing unnecessary distress. Appropriate warnings should be given prior to transmission. It should be acknowledged that having news flashes with distressing material are not designed to upset but may be necessary due to an overriding public interest.

10.4.2. News and the watershed

While seeking to inform, news programmes, updates and promotions should be mindful of the audience watching. The level and intensity of a news piece may be acceptable after an agreed watershed but not before due to the possibility that high numbers of children may be watching. Of greater importance is the fact that television news updates and promotions should not be shown at inappropriate times, especially during programs directed at young children: 'They should include very little violent material and none at all in the later afternoon and early evening.'¹⁴

10.4.3. Balance of coverage

News programmes should be balanced and objective in their coverage of events. Interviews held with spokespeople should reflect all relevant points of view. The Australian Broadcasting Corporation (ABC) would support this approach but would leave the final say to editors to review on a case by case basis. More specifically, it says

Every reasonable effort must be made to ensure that programs are balanced and impartial. The commitment to

¹³ Australian Broadcasting Corporation (2003), *ABC Code of Practice*, 4.

¹⁴ ABC, 4.

balance and impartiality requires that editorial staff present a wide range of perspectives and not unduly favour one over the others. But it does not require them to be unquestioning, nor to give all sides of an issue the same amount of time.¹⁵

This is also true of current affairs programmes and documentaries. Balance of material, viewpoints and the appearance of relevant personnel are all important to give credibility to the programme produced. Facts should be presented as accurately as possible and not in a manner that could mislead the viewer and/or listener in any way. Where this is not possible in one programme, it is accepted that another programme may indeed be necessary to provide such balance.

There is always a need to distinguish news and supplementary information from comment. Due consideration must also be given to the commentary, to the words used in each instance. The former Broadcasting Standards Commission (BSC) in the UK said that while broadcasters

should not shy away from showing the consequences of violence, they must...take care in the choice of accompanying words to ensure that they put the scenes into the right perspective. Senior editorial judgement must be exercised in assessing the impact such material may have on the audience.¹⁶

10.4.4. Re-enactments

Re-enactments are a device common to news, current affairs and documentaries. It is hoped that when used, they are labelled accordingly and presented in a way that will not mislead or offend audiences. Again such representations should be in accordance with the truth and not inflated to sensationalise the event. While a useful technique in many instances, care must be taken when dealing with sensitive material. Due consideration should be given to, for example, 'bereaved relatives and survivors or witnesses to the traumatic incident.'¹⁷ In certain instances, all attempts should be made to inform those with the potential to be affected by the reconstruction. This is particularly necessary where fresh details may be introduced, new evidence or different theories may be introduced for consideration.

Re-enactments are not drama but serve a distinct purpose within a documentary, current affairs or news programme. As a result, 'It is important not to overemphasise the dramatic aspects of reconstructed crime by the insensitive use...of slow motion, music or other special dramatic effects.'¹⁸ Furthermore, information about relevant victim support groups should be given at the end as appropriate.

10.4.5. Additional responsibility in coverage

Additional responsibility must be taken in the coverage of extraordinary situations. Live coverage of a riot or domestic terrorist events should be handled carefully 'to

¹⁵ ABC, 4.

¹⁶ BSC, 12.

¹⁷ ABC (2003), 4.

¹⁸ BSC, 14.

ensure news coverage does not become a factor in inciting additional violence.’¹⁹ With reference to executions and assassinations, the coverage should not be explicit, prolonged or repeated gratuitously.’²⁰

10.4.6. Use of archival material

Archival material is often used in news, current affairs and documentaries. When the subject matter is sensitive – for example, a crash, disaster or bombing – due consideration must be given to the survivors of such an event and those who lost kith and kin.²¹ According to the BSA, New Zealand,

Broadcasters are required to exercise sensitivity when showing library tape of bodies or human remains which would cause distress to surviving family members. Where possible, family members should be consulted before the material is used. This standard is not intended to prevent the use of material which adds significantly to public understanding of an issue which is in the public arena and interest.²²

Similarities with requirements for re-enactments occur. Apart from appropriate respect being given to those directly affected, all emphasis should be placed on informing and not sensationalising. Most importantly, ‘Edited extracts of programme material must be a true reflection and not a distortion of the original event or the overall views expressed.’²³

10.4.7. Use of amateur footage

Broadcasters are increasingly being offered amateur footage, often recorded on amateur video recorders, Closed Circuit television (CCTV) and webcam. According to the BSC, such amateur material

provides another source of material where careful editorial decisions at a senior level are cared for, balancing the immediacy of the material with its impact and suitability for transmission at one time of the day or another. Broadcasters will have to make difficult decisions about how much detail of shocking material is necessary or acceptable, and to what degree material must be edited before it can be shown at all.²⁴

10.5. Guidelines and guidance

Throughout this section, emphasis has been placed on the sensitivity of material used in news, current affairs and documentaries. It has been argued that responsibility must be at the core of any approach taken and offensive and/or distressing material

¹⁹ CAB (n.dat), n.pag.

²⁰ BSA, 8.

²¹ BSC, 7.

²² Broadcasting Standards Authority, New Zealand (n.dat – c), *Pay TV Code*, 4.

²³ BSA (n.dat – c), 4.

²⁴ BSC, 12.

broadcast must be in context and editorially justifiable. In many of the sample countries used in this study, guidance and guidelines are provided. These show what is and what is not permissible within such programming. Many of the points made have been hereby reviewed. At this point, attention turns towards looking at a sample of more specific guidelines for programming and also, at recommendations vis-à-vis how the delicate subject of suicide should be approached.

10.5.1. Sample guidelines

The BSC issued many guidelines in respect of news and current affairs broadcasting. Essentially, it believed that broadcasters have to balance the need to tell the truth against the danger of desensitising people. ‘As general guidance in striking this balance’, the BSC advised that the following principles be borne in mind:

- Decency requires that people should be allowed to die in private. Only in the rarest circumstances should broadcasters show the moments of death;
- The dead should be treated with respect and not shown in close-up, unless there are compelling reasons for doing so;
- Close-ups of the injuries suffered by victims should generally be avoided;
- Care should be taken not to linger unduly on the physical consequences of violence;
- Explicit scenes of hangings or other executions should not be shown before the Watershed, without overwhelming justification.²⁵

10.5.2. Suicide

Particular attention and sensitivity should be paid to the reporting of suicide and any such depictions. Essentially, a balance should be struck between reporting fact against inviting imitation. Different views surround whether or not suicide should be reported. According to the Estonian Press Council, the news value of a suicide or attempted suicide must be questioned rigorously.²⁶ Conversely, the Commonwealth Broadcasting Association (CBA) sees it as ‘a legitimate subject for news reporting.’²⁷ The Federation of Australian Commercial Television Stations (FACTS) believes that reports of suicide or attempted suicide should only be broadcast where there is an identifiable public interest reason to do so.²⁸

Whatever the decision, it is agreed that the reporting and/or depiction of suicide should be done with the utmost of care. No detailed description of the method used should be given: ‘The report must be straightforward, and must not include graphic details or images, or glamorise suicide in any way.’²⁹ Reporting of suicides should not be sensationalised. In addition, care ‘needs to be taken over the use of words to describe the event.’³⁰

²⁵ BSC, 13.

²⁶ Estonian Press Council, 2.

²⁷ Commonwealth Broadcasting Association (n.dat), *CBA Editorial Guidelines* (draft), 25.

²⁸ Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April, 24.

²⁹ FACTS (1999), 24.

³⁰ Broadcasting Authority, Hong Kong (2003), *Generic Code of Practice on Television Programming Standards*, 20.

Reporting on, and depiction of, suicide involves social responsibility. According to the BSC,

Factual reports should not suggest that there is a simple explanation or conversely that the suicide/self-harm was inexplicable. The action should not be conveyed as an understandable response to difficulties encountered in life or perceived failures. Reports should refrain from making the news overly prominent or using it repetitively especially when a possible role model is involved.³¹

10.6. Concluding remarks

One might ask why pay separate attention to news, current affairs and documentaries when many of the points are covered elsewhere in this study? Due to the depiction of factual information and representation, these categories often affect viewers more closely than fictional portrayals – especially when it is in familiar surroundings or in their own country. This is particularly true of children. Chapter 12 will show that children find real life violence and news reports more distressing, especially when they involve familiar settings and children from the same age groups.

If reporting, depictions and re-enactments cause such distress, one must ask why allow them to continue? In context, one must accept that all material featuring in news, current affairs or documentaries is not deliberately distressing. People need to be informed of developments occurring elsewhere. They need to be made aware of national and international events. Such material cannot be removed from the public arena simply because it is upsetting. News reporters and documentary makers are charged with recounting stories and events. Advance and intra-programme warnings should be given as appropriate to inform consumer choice. People view or listen voluntarily, at all times retaining the right to switch over or to switch off. According to the Canadian Association of Broadcasters (CAB), while broadcasters should ‘not exaggerate or exploit situations of aggression, conflict or confrontation, equal care shall be taken not to sanitize the reality of the human condition.’³²

Responsible broadcasting is imperative in news, current affairs and documentaries. Respect and dignity must be applied to the subject matter throughout the segment and programme. Decency should be at the core of reporting or representing an event. Information which is irrelevant, but its inclusion has the potential to prejudice, should be omitted. Coverage should not be gratuitous, sensational or be designed to titillate. Information presented should not cause offence or unnecessary panic. With the very best intentions, however, material broadcast will be sensitive with the potential to offend some people and upset others.

³¹ BSC, 9.

³² CAB, n.pag.

11. Drugs, alcohol and imitative behaviour

11.1. Introduction

Coarse language, sex and violence emerge as the three main areas when discussing issues of taste and decency. More minor categories include the representation of drugs and alcohol in the broadcast media. On many occasions, attention is paid to reducing the impact of certain scenes in a bid to minimise the potential to imitate. On many occasions, attempts are made to reduce instances of anti-social behaviour which might be linked to broadcast media consumption.

This section considers the three themes of drugs, alcohol and imitative behaviour. Whilst the link between broadcast media and subsequent behaviour cannot be proved conclusively, a responsible approach to programme making is still at the core of dealing with particular types of content material.

11.2. Alcohol and drugs

Alcohol and drugs consumption should not be presented as desirable to the viewing and listening public. Looking at these two separately, the following observations can be made.

Alcohol consumption, it is believed, should not be promoted and drunken behaviour should not be portrayed as acceptable. The fact that alcohol and tobacco are social drugs - and thus, legal - means that their 'consumption carries no particular stigma even though they can constitute a major health risk and may be as addictive as drugs which are less socially approved...'¹

Drugs include all illegal substances, solvents and for some, tobacco products. Consumption of these products should not be presented as desirable. With reference to illegal drugs, detailed depictions of how these are taken should not be provided. The former Broadcasting Standards Commission (BSC) in the United Kingdom (UK) advised broadcasters that

¹ Radio Authority (2002), *News and Current Affairs and Programme Code*, 25.

There is a particular danger in showing in any detail how to administer drugs and in failing to illustrate consequences that drug abuse can bring about, especially in programmes that appeal to young people. Similar considerations apply to any other drug-related substance abuse.²

11.2.1. *The power to influence*

What actual effect media portrayals of alcohol and drugs consumption have on viewers is difficult to determine. Many assumptions are made but few can be substantiated. The recent MEAS report linked the appeal of media celebrities to underage drinking in Ireland:

The current media and general public fascination with celebrities and other aspects of popular culture, exposes children to apparent widespread use of alcohol by sports, pop and other icons. Alcohol use has been 'normalised' and most kids can recount details of favoured celebrities' over indulgence in alcohol. This influence is both pernicious and seemingly unstoppable, and is compounded by widespread unsupervised access to TV, magazines and so on.³

While the power to influence is accepted; it is the actual effect that is in dispute. BSC research revealed that the link between media and drug consumption can be quite tenuous. The film *Trainspotting*, for example, has been regarded as promoting the use of heroin but when participants in the BSC study were questioned, it was found that

only one young man said he had smoked heroin as a consequence of seeing the film and another that it had taught him how to inject. Both of these young men clearly felt that *Trainspotting* had made them more interested in heroin...The researchers who listened to their accounts doubted if the connection was as straightforward as was claimed.⁴

In answer to more general questions, the BSC discovered that 'Broadcast media and film were rarely mentioned spontaneously as an influence one way or the other on respondents' drug taking.'⁵ Furthermore, it was felt the 'Relative neglect of broadcast media and film as an influence may reflect the feeling that only hopelessly weak and easily led people would allow their personal decisions to be influenced by what they see on TV or in the cinema. Non-users seemed to feel this as much as users.'⁶

² Broadcasting Standards Commission (n.dat), *Code on Standards*, 7.

³ MEAS (2004), *Underage drinking is rarely black & white*, Dublin: 16 June, 5.

⁴ BSC in conjunction with the British Board of Film Classification (2000), *Knowing the score*, a report by A. Cragg, 16. This research focused on the age band 11-35. Page 2 of the report outlines the focus as being '...on those who take or had taken drugs, to seek to understand what role, if any, the broadcast media and film played in their decision-making.'

⁵ BSC and BBFC, 59.

⁶ BSC and BBFC, 59.

11.2.2. *Acceptable circumstances*

Alcohol and drugs are part of every day life. Their portrayal therefore in broadcast media is inevitable. When a responsible approach is taken to the subject matter, where drinking and drug taking are not glamorised or sanctioned and where the depiction of both does not encourage anti-social behaviour, the inclusion and exploration of such themes is considered acceptable. Context and editorial justification are once again important. Consequently, one sees that the ‘portrayal or, and reference to, drunkenness and addiction to drugs or narcotics should be limited to the needs of the plot and characterisation...’⁷ Depiction for the purposes of education is always considered acceptable as it is deemed to be in the public interest.

How alcohol and drugs are portrayed in programming should always take the composition of the audience watching into account. What is permissible after the watershed may not be acceptable prior to that time. Drink and drugs cannot be depicted in pre-watershed material as acceptable, glamorous nor should scenes detail the intricacies of drug taking. For the BSC, there is ‘particular danger in showing in any detail how to administer drugs and in failing to illustrate consequences that drug abuse can bring about, especially in programmes that appeal to young people.’⁸

Programmes made especially for children should not feature any alcoholic drinks, tobacco and drugs.⁹ Exceptions are noted, however. Firstly, one or more of these substances can be included if the overall emphasis of the programme is educational. And secondly, if ‘in very exceptional cases, the dramatic context makes it absolutely necessary.’¹⁰

11.3. **Imitative and anti-social behaviour**

Concern expressed vis-à-vis the depiction of alcohol and drug use is the potential to imitate. In turn, this is linked to the possibility of increasing anti-social behaviour. Excessive drinking or drug taking can, and does, lead to aggressive and violent behaviour. Consequently, broadcasters and programme makers are advised to apply due care that this link is not exaggerated in programming.

Imitative behaviour is not limited to alcohol and drug consumption, however. Other areas causing concern include:

- suicide;
- criminal activities;
- use of weapons and methods of torture; and
- gambling.

‘Suicide’, ‘criminal activities’ and ‘the use of weapons and methods of torture’ have been referred to elsewhere in this study. In short, the following observations have been made.

⁷ Broadcasting Authority, Hong Kong (2003), *Generic Code of Practise on Television Programming Standards*, 11.

⁸ BSC, 7.

⁹ Broadcasting Authority, Hong Kong (2003), 11.

¹⁰ Broadcasting Authority, Hong Kong (2003), 11.

11.3.1. *Suicide*

Reporting of suicide and attempted suicide should not carry sufficient detail to invite or to facilitate other suicides – ‘especially when that method is readily available or contains some novel aspect.’¹¹ Evidence suggests that ‘leaving details as to method or location imprecise can discourage both imitative suicide attempts and the presence of curious spectators. It should be borne in mind that late evening, early morning and public holidays are periods when loneliness and isolation can be at their most intense.’¹² Care should also be applied to fictional representations of suicide and material diluted if it is transmitted prior to an agreed watershed.

RTÉ accepts that the ‘act of suicide is a legitimate subject for factual reporting and drama.’¹³ It issues warnings to programme makers, however, to deal with the subject matter in a manner which is informative and responsible albeit not easy to imitate. More specifically, it states that

Descriptions and demonstrations of the exact method of suicide should be avoided. Consideration must be given to the likely broadcast time of programmes that contain suicide as a topic or theme. These programmes may need to be scheduled after the watershed. Consideration must also be given to the possible impact on vulnerable adults of programmes with suicide as themes. Adults with suicidal tendencies may be more vulnerable during the late hours of the night or at festival times, such as Christmas or New Year.¹⁴

Attention is also paid to this topic in the section entitled ‘Children and Broadcasting’. Here RTÉ states that ‘No film or programme which include [sic] scenes of hanging, or preparations for hanging capable of easy imitation, should be scheduled to start during family viewing time.’¹⁵

11.3.2. *Criminal activities*

Criminal activities should not be portrayed in a way which might entice people to imitate certain acts. Details of how a crime is carried out should be kept to the minimum to inhibit duplication. Similarly, broadcasters ‘should avoid any material likely to encourage or facilitate imitative violent behaviour.’¹⁶

11.3.3. *Use of weapons and methods of torture*

Particular care is advised in the depiction of how weapons are used and also how torture is carried out. According to the Broadcasting Authority of New Zealand, ‘Ingenious devices for, and unfamiliar methods of, inflicting pain, injury or death particularly if readily capable of easy imitation, should not be shown, except in exceptional circumstances which are in the public interest.’¹⁷ Included in this category

¹¹ BSC, 9.

¹² BSC, 9.

¹³ RTÉ, *Programme-Makers’ Guide*, n.pag.

¹⁴ RTÉ, n.pag.

¹⁵ RTÉ, n.pag.

¹⁶ BSC, p.16.

¹⁷ Broadcasting Standards Authority, New Zealand (n.dat), *Free-to-Air Television Code of Broadcasting Practice*, 3.

is how to make and to detonate explosives, rabbit punches, suffocation, sabotage of vehicles and booby traps.¹⁸

Special care should be taken if children are watching or could view such programmes. Similar restrictions apply to radio where it is advised that ‘The portrayal or description of dangerous behaviour easily imitated by children, including the use of offensive weapons or articles readily accessible to them, must not be broadcast when children are likely to be listening.’¹⁹ RTÉ has given similar directions:

The portrayal of any dangerous behaviour easily imitated by children should be avoided and must be excluded entirely at times when large numbers of children may be expected to be watching. This applies especially to the use, in a manner likely to cause serious injury, of knives and other offensive weapons, articles or substances which are readily accessible to children.²⁰

11.3.4. Gambling

Care is also expected where gambling is a theme given the fact that its addictive quality is on a par with alcohol and drugs. Presenting gambling as desirable is frowned upon. So too are presentations which encourage or offer instructions to the viewer and/or listener. It is not a taboo subject, however. According to the Broadcasting Authority in Hong Kong ‘The use of gambling devices or scenes relevant to the development of the plot or as an appropriate background is acceptable. It should be presented with discretion, moderation and in a manner which does not encourage or offer instructions in gambling.’²¹

11.4. Lyrics and music videos

Many concerns outlined in this section converge on the area of contemporary music. As a result, broadcasters and programme makers are often advised to ensure that music played and/or videos broadcast do not encourage anti-social behaviour. More specifically, caution is advised where criminal activities and lifestyle may be glamorised or where the use of weapons is too detailed. Equal care should be applied to the depiction of drinking and of taking drugs. Regarding lyrics, songs which contain references to crime, alcohol or drugs or which encourage aggressive behaviour or debase human relationships should be restricted and, if necessary, prohibited. Given the nature of many music videos, it is recommended that broadcasting of such observes ‘the appropriate scheduling considerations and limits applied to other broadcasts.’²²

11.5. Concluding remarks

In this chapter, drugs, alcohol and initiative behaviour were considered. Threads present in other chapters were drawn together to address how such depictions might

¹⁸ Broadcasting Authority, Hong Kong (2003), 23.

¹⁹ Radio Authority, 19.

²⁰ RTÉ, n.pag.

²¹ Broadcasting Authority, Hong Kong (2001), *Radio Code of Practice on Programme Standards*, 3.

²² BSC, 10.

harm and thus, how they might be presented in a responsible fashion. Throughout, it was seen that context plays an important role in judging the acceptability of an individual image. While care must indeed be taken, it remains impossible to determine the true effect on viewers and listeners.

12. Children and children's programming

12.1. Introduction

Issues of taste and decency can affect all consumers of broadcast media. Material reviewed and arguments made refer to all people, including children. That was a general overview. Delving deeper, one finds significant differences when adults and children are compared in this instance. Children perceive and are affected differently by material. They 'are presumed to be different from adults, to be more vulnerable, less able to apply critical judgmental standards, and to be more at risk.'¹

This section addresses factors held accountable for key differences. In order to illustrate the level of exposure to television, it begins by looking at the level of television ownership among children and young people in the United Kingdom (UK) and Ireland. Hours watched by children in these two polities are also outlined. It then looks at children's reactions to violence, coarse language and sex, highlighting, where appropriate, the differences which occur between child viewer and adult viewer. Programme genres particular to children are considered as is their reaction to such material – for example, cartoons. And finally, this section concludes by examining the different levels of regulation which characterise parent-child relations and outlines the factors why this is so.² Although children as a category are the central focus of this section, recognition is given to the fact that children of different ages react differently to material broadcast and require and/or receive varying levels of protection and supervision. Where possible, children's views are introduced to give their perspective and/or to substantiate statements made.

12.2. Television ownership

In order to assess the influence television can exert on children, it is important to address their access to television and to determine their level of exposure to the medium. Such information helps to understand the impact that violence, sexual images and related matter may have on children.

¹ Commission of the European Communities (1999a), *Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee – Study on Parental Control of Television Broadcasting*, 19 July, 2.

² As children tend to watch television more frequently than listen to radio, all material reviewed herein, unless otherwise stated, refers to television consumption.

12.2.1. Television ownership

Access to television is great. In the UK, it was found that ‘in 2002, 57% of children (taken as ‘the oldest child’) had a television set in their bedroom. This rose to 78% among children aged 11 and over.’³ While it must be acknowledged that the UK has one of the highest rates of such television penetration, similarly high levels have been observed in Ireland. Table 12.1. substantiates this point while showing how this has steadily increased since 1987:

Table 12.1.
Television ownership in Ireland:
1987-2000⁴
(in percent)

Ownership	1987	1994-5	1999-2000
1 set	61.2	88.2	96.2
2 or more sets	14.0	28.4	49.0

Recent research carried out by MEAS indicates ‘that 57% of all 12-17 year olds (and not increasing very markedly with age: it is 55% at 12/13) have a television in their own room. This is slightly more an urban and working class phenomenon, but not substantially so.’⁵ And yet, why is this considered important? Having a television set in the bedroom heightens children’s potential exposure to unsuitable material while significantly reducing the level of parental supervision.

12.2.2. Exposure to television

Research reveals that children’s exposure to television is high. Table 12.2. outlines the amount of time children spent viewing television in the years 2000-2002.

Table 12.2.
National average minutes viewing for children 4-14:
2000-2002⁶

Year	Minutes (hours) viewed
2000	168 minutes (2.75 hours)
2001	152 (2.5 hours)
2002	164 (2.72 hours)

An average for these three years is 161 minutes or 2.5 hours. Television viewing can also increase and decrease by season with children watching more television during the winter and less in the summer. It can therefore range from 2 to 4 hours depending on the weather.

* * * * *

³ Millwood Hargrave, A. (2003), *Violence and the Media: Integrated Project 2 – Responses to Violence in Everyday Life in a Democratic Society*, June, 10.

⁴ Central Statistics Office, Ireland (2000), *1999/2000 Household Budget Survey*.

⁵ MEAS and Behaviour and Attitudes Ltd. (2004), *Underage drinking is rarely black and white*, 16 June, 23. The sample size for this survey 400 in the 12-17 year old category.

⁶ Broadcasting Commission of Ireland (2003), *Research into children’s viewing patterns in Ireland*, Dublin: BCI, 5.

Television can be watched in the family room or own bedroom making access both easy and wide. Actual time spent watching television is also high. With more exposure, comes the potential for greater impact.

Figures presented should be viewed in context, however. Compared to other categories, children are moderate users of television. People in the 65+ category are the heaviest consumers, averaging 5 hours 14 minutes per day. This is compared to an average of 2.5 hours for children and an average of 3 hours 38 minutes across all age categories.⁷ It is important therefore to view such figures in context, to recognise that television has to compete with children's other activities. It is not their sole interest or pastime.

12.3. Programming and children

Material viewed by children is not uniform. Three principal layers can be distinguished: (a) programming seen by children (adult material); (b) programming made for children; (c) programming featuring children. These will be considered here in brief.

12.3.1. Programming seen by children (adult material)

Observations and comments made throughout this report apply to this category. Material broadcast should demonstrate respect and decency for the subject matter and while informing and being editorially justified, should cause the least offence to the viewing public. Looking at this from the perspective of children, certain comments particular to this section of the audience can be made. From material reviewed, sex, coarse language and, most prominently, violence emerge as the three key areas in this respect. Similarly to adult viewing, it is acknowledged that certain categories – for example, pornography, extreme violence, snuff movies and paedophilia – will never be accepted within programming boundaries.⁸

12.3.1.1. Sex

Shielding children from programmes of a sexual nature is believed to affect mainly older children. 'For many parents of younger children...the issue of avoiding sexual content barely arises because their children are in bed when potentially embarrassing material is screened.'⁹ Regarding older children, it has been found that many are watching sexual content with little or no regulation – by watching secretly or in collusion with their parents. A belief has been expressed 'that children at age 13 or 14 no longer need to be shielded from sexual issues and sexual portrayals...'¹⁰ Indeed some parents saw positive benefits to their older children watching this type of material.

⁷ Independent Television Commission (2002b), *The Numbers Game – Older People and the Media*, a report by P. Hanley, 5.

⁸ British Broadcasting Corporation, Broadcasting Standards Commission and Independent Television Commission (2002b), *Striking a balance: the control of children's media consumption*, a report edited by P. Hanley, 20.

⁹ BSC, BBC and ITC (2001), *Viewers and Family Viewing Policy*, a report by Dr. R.C. Towler, 18.

¹⁰ BSC, BBC and ITC, 19.

Research carried out in Australia revealed that children have their own gauge by which to assess sexual content.¹¹ In general, female nudity was preferred to male nudity and ‘mild kissing’ was seen as more acceptable to instances where ‘adults were getting carried away’ with their kissing.’¹² A certain level therefore will be tolerated.

12.3.1.2. Coarse language

Regarding coarse language used on television, the general concern expressed here is the potential for imitative behaviour. Consequently, it is believed that bad language – including profanity – should not be used in programmes made for children.¹³ It should be toned down in programmes where there is a possibility that children may be watching and, in particular, prior to the watershed.

12.3.1.3. Violence

The way children react to violent images differs sharply from adults. They tend to be frightened by incidents which mirror their own lives rather than more fictional representations. Portrayals of scenes set in familiar environments or familiar characters are likely to have a greater impact on young viewers than overly graphic representations of blood and gore. In this context, news can be very frightening – especially reports that focus on abduction or the murder of young people.¹⁴ ‘Particular distress can be caused where such violence occurs in a domestic setting and scenes of serious domestic conflict whether or not accompanied by physical violence or threat, can cause fear or insecurity.’¹⁵ Consequently, when compared to adults, it is believed that children are more likely to judge scenes as violent according to their real life consequences and moral status than simply on the basis of what is shown.¹⁶ How violent an image is judged to be will depend on how justified a child views it and/or how closely it relates to his own life.

As children grow older, their interpretation of violence becomes more akin to that of an adult. In addition, they will be viewing content which is aimed predominantly at adults. Similarly to adults, therefore, their acceptance of the scene will be based on whether or not the action is seen as justifiable and the relationship which ensues between protagonist and victim. If the violence is not justifiable and the victim seen as guilty, the scene is often considered more violent.¹⁷ Gender differentiation should also be taken into account at this point as it has been determined that boys are more likely than girls to seek out violent images.¹⁸

Greater protection is afforded to younger children but total protection from violence is not the result. Young children are still exposed to violent images.¹⁹ Similarly to programmes with sexual content, older children are subject to very few controls –

¹¹ Australian Broadcasting Authority (1997), ‘Cool’ or ‘gross – Children’s attitudes to violence, kissing and swearing on television; and Australian Broadcasting Authority in collaboration with the University of Western Australia (2000), *Children’s views about media harm*, Monograph 10.

¹² ABA, 32.

¹³ Independent Television Commission (2002), *Programme Code*, 5.

¹⁴ Millwood Hargrave, 14; ITC, 5.

¹⁵ ITC, 5.

¹⁶ Independent Television Commission (2003b), Press Release: *Children show an informed attitude to images of violence*, 22 September.

¹⁷ ITC (2003b), n.pag.

¹⁸ ITC (2003b), n.pag.

¹⁹ BSC, BBC and ITC, 19.

‘...even though they may not fully approve, virtually no parents objected to their older children watching violence on television, either with them or on their own in their bedrooms.’²⁰

12.3.2. *Programming made for children*

More restrictions and caution apply to programming made for children as it is assumed the target audience is comprised predominantly of juniors rather than seniors. A greater degree of regulation therefore applies albeit to similar areas. It is believed that sex and coarse language should not feature during child viewing hours while violence will be kept to an absolute minimum. Recognising that identifying with real-life situations can be problematic for children, caution should be applied to how characters are portrayed and the context in which storylines are set.

Cartoon violence can also be problematic. It is becoming more so given the fact that refining production techniques make cartoons increasingly realistic. ‘In addition, the style and content of cartoons these days are influenced by computer and video games.’²¹ While in some cases humorous and slap stick, it is hoped that cartoons do not contain overtly violent representations.

Cartoon content and style are not uniform, however. A significant difference must be acknowledged between more traditionally styled cartoons – e.g. *Hey Arnold*, *Scooby Doo* and *Rugrats* – and the more modern action cartoons – e.g. *Gargoyles*, *X-Men* and *Batman & Robin*. The latter are closer to reality – involving weapons, destruction and violent actions. Gender differences must again be noted as it is believed that girls tend to favour more traditionally styled cartoons while boys, particularly in the 5-7 age group, prefer action cartoons.²² Children have their own way of measuring such content. Primarily, they are able to make a distinction between animation and real life. They can make distinctions between ‘good scary’ and ‘bad scary’. ‘They believe that baddies never kill or hurt the goodies and that things always turn out okay in the end.’²³ What then has been the position for regulators? According to the Canadian Association of Broadcasters (CAB), ‘Animated programming for children, while accepted as a stylized form of storytelling which can contain non-realistic violence, shall not have violence as its central theme, and shall not invite dangerous imitation.’²⁴ Any depiction of violence, whether real life or animated, should not ‘minimize or gloss over the effects of violent acts.’²⁵ Any such depictions should show the consequences of the actions of the people and/or property concerned and should not portray violence as a means of resolving problems.

12.3.3. *Programming featuring children*

Respect and dignity should be applied to programmes featuring children – whether geared at a child or at an adult audience. Particular areas of programming, however, emerge as in need of special attention – those dealing with incest, child abuse and sex

²⁰ BSC, BBC and ITC, 20.

²¹ Independent Television Commission (n.dat), Summary: *Cartoon Crazy?* 1.

²² ITC, 2.

²³ ITC, 3.

²⁴ Canadian Association of Broadcasters (n.dat), *Voluntary Code Regarding Violence in Television Programming*, n.dat.

²⁵ Canadian Association of Broadcasters (n.dat), n.pag.

with minors. While relevant legislation would apply in this respect, certain points can be highlighted.

Programmes dealing with incest, child abuse and sex with minors are a reflection of real life. These can be legitimate themes for programmes: ‘it is the treatment that may make it inappropriate or unlawful. The treatment should not suggest that such behaviour is legal or is to be encouraged.’²⁶ When handled correctly, and when editorially justified, such material can be educational and thought provoking. Realistic depictions of sex with minors are considered unacceptable in all circumstances.

Particular care is often requested in scenes where such programme matter is portrayed. This is due to the fact that it closely portrays real life experience and might affect people in the audience who identify with such characters. In dealing with this subject matter, great sensitivity must be applied and the manner of presentation should be neither exploitative nor irresponsible.

In Ireland, legislation applying to the protection of children includes the *Child Trafficking and Pornography Act, 1998*. This Act defines child pornography as understood in the Irish context as usually meaning any representation where children are used, or appear to be used, to perform sexual or sexually enticing acts. Furthermore, it is stated that, in Ireland, it is illegal for anyone to knowingly produce, distribute, print, publish, import, export, sell, show or possess child pornography.

12.4. Children and imitative behaviour

Similarly to adults, the possibility for imitative behaviour and anti-social behaviour arises where children are concerned. While the link between television viewing and behaviour cannot be proved conclusively, the concern is very real for many parents. Mainstream concerns are also relevant here – for example, drugs, alcohol, anti-social behaviour and glamorising criminal behaviour. There are areas particular to children, however. In this respect, the former Independent Television Commission (ITC) advised that

The portrayal of any dangerous or harmful behaviour easily imitated by children should be avoided, especially before the watershed, and must be excluded entirely in children’s programmes. This applies especially to the use, in a manner likely to cause serious injury, of knives and other offensive weapons, articles or substances. Certain household goods, such as microwaves and tumble-dryers readily accessible to children can cause harm if misused and care should be taken with the portrayal of any such use. Certain locations, such as railway lines, can raise similar concerns.²⁷

The dangers of imitation among children are far greater than for adults. Greater caution must therefore be applied in all relevant sections and portrayals.

²⁶ Broadcasting Standards Commission (n.dat), *Code on Standards*, 15.

²⁷ ITC (2002), 5.

12.5. Regulating viewing

The image of the family viewing television as a single unit in the same room at the same time is becoming increasingly obsolete. People are watching at different times and at different locations. Such changes impact on the way people regulate their children's viewing. The levels of supervision experienced can also differ according to the age of the child, the gender, the composition of the family, the ethos of the family, whether they have terrestrial only or multi-channel viewing, pressure and trust.

12.5.1. Age

It is understandable that more supervision will be given to the viewing patterns of younger children than to young people. With younger children, the attitude is often one of nurturing and protecting from an assortment of dangers, including television. It is also maintained that there are varying levels of ability to interpret material received. These are not the only reasons for this imbalance of approach. Some parents impose less supervision on older children as they often are unable to do so. 'Parents of teenagers...felt they had little control, especially over what their children watched in their rooms late at night.'²⁸ Research in the UK demonstrated that children in the 10+ category are often afforded little to no protection.²⁹ In addition, children in this category find it easy to circumvent their parents rules - and indeed the watershed - by watching in their own rooms, in those of a sibling, in a friend or neighbour's house or by video taping a programme to be played when the parents are out or are otherwise occupied. According to R.C. Towler, 'When conflicts about what is to be watched arise, issues are resolved only rarely, and instead the various parties, across generations, split off and watch separately.'³⁰ He also surmised that in all but the strictest of families, 'by the time children reach the age of 13 or 14, parents in [his] study [were] found to have affectively relinquished active control of children's viewing and ceased to exercise vetoes.'³¹

12.5.2. Gender

Gender also influenced the level of supervision given. When compared, parents tend to exercise more control over their daughter's viewing than that of their sons.³²

12.5.3. Composition of families

The makeup of families has changed significantly over the years. Many children are now being raised by a single parent – as a result of divorce or circumstance. No set rules can be observed. Where parents live separately, two sets of rules can conflict. Single parents are sometimes considered to be vigilant vis-à-vis their children's viewing but instances arise where children are allowed to watch more grown-up content because of the absence of the second parent.³³ Such freedom may also be given to win favour with the child at the expense of the absent parent.

²⁸ ASA, BBC, BSC and ITC (2000), *Delete expletives*, a report by A. Millwood Hargrave, December, 6.

²⁹ BSC, BBC and ITC, 46.

³⁰ BSC, BBC and ITC, 46.

³¹ BSC, BBC and ITC, 46.

³² ASA, BBC, BSC and ITC, 6.

³³ BSC, BBC and ITC, 15.

12.5.4. Multi-generational families and those with strong religious beliefs

Higher levels of supervision were observed in multi-generational families. The same was true of those with strong religious beliefs.³⁴

12.5.5. Access to multi-channel versus analogue channels

The explosion in the number of available television channels in Europe has also had an affect on the level of supervision experienced by children. Research carried out in the UK has demonstrated ‘that parents who have chosen multi-channel access seem to be less concerned about their children’s diet of viewing than do parents who choose to stick to the five analogue terrestrial channels.’³⁵ This is particularly alarming given that ‘These developments make it more difficult for regulatory authorities to monitor the way broadcasters comply with programming standards based upon cultural sensitivities.’³⁶

12.5.6. Pressure

Many parents felt unable to control the viewing of older children given the level of pressure they are experiencing. Pressure emanates from a number of sources:

[Parents] said they felt powerless in the face of their children’s demands – to monopolise the main television set, to get sets of their own, to be given names to have their own multi-channel access, their own telephone – and they felt that these demands were compounded by the peer pressure to which children were subjected at school.³⁷

Many parents give into the pressure, adopting a ‘anything for a quiet life’ attitude. Others feel they should ‘proactively and actively avoid being over protective, and see television as a window on the world that exposes children to the realities of life.’³⁸ Parents cannot always control children’s viewing given the number and variety of methods employed by some to get around their parents’ rules and to circumvent the watershed.

12.5.7. Trust

Decreasing levels of supervision as children grow older has been explained by some parents as a way of instilling more trust in their children. Such parents argue that it is important to give children responsibility in choosing their own television programmes. In these contexts, some parents trust ‘their children to regulate themselves, and to abide by their parents’ general rules and principles without those rules and principles being enforced.’³⁹

* * * * *

Where rules were enforced, they were not always rigid. Australian research gleaned from children’s descriptions stated ‘that parents imposed, relaxed, modified and

³⁴ ASA, BBC, BSC and ITC, 7.

³⁵ BSC, BBC and ITC, 30.

³⁶ Commission of the European Communities, 2.

³⁷ BSC, BBC and ITC, 11.

³⁸ BSC, BBC and ITC, 15.

³⁹ BSC, BBC and ITC, 17.

changed domestic rules to suit situations as they arose. Rules were flexible and adjusted frequently according to the child's growing independence and maturity.⁴⁰ Such supervision has been described as 'organic', developing and changing to fit need and circumstance.⁴¹

And what of children? While many enjoyed dodging rules, conspiring to watch past the watershed and whispering to others of their triumphs, many accepted that parental restrictions when applied were in their best interests. Accepting the principle of regulation, however, did not stop children from pushing out boundaries. Similarly to other areas of their lives, children pushed against their parents to get their own way vis-à-vis television. In the 2000 Australian study:

Many of the young people demonstrated how they put the onus on parents to tell them to turn a program off: continued viewing programs until their parents gave up telling them not to; avoided conflict of interests with parents by moving to another room; or occasionally openly persisted with a forbidden activity in the parents' presence.⁴²

With supervision or with few rules in effect, children do not view material indiscriminately. They may push boundaries or circumvent rules and watersheds but in the majority of cases, children are largely self-regulating. They have an inbuilt notion of what they are ready for and what might upset, that if the Continuity Announcer identifies material as unsuitable, there is general acknowledgement that it might indeed be so. Moreover, research has found that, when asked, 'A few of the children said they really disliked feeling scared, or watching material that contained graphic violence and sexual references. They particularly did not enjoy seeing child abusing or wife bashing, cruelty to animals or sloppy kissing.'⁴³ One sees therefore that in many instances, child viewers can be as discerning in their tastes as adults.

12.6. Parents and the watershed

Parental supervision is believed to increase sharply after an agreed watershed. For some, this indicated an 'implicit contract' between audience and broadcaster where the broadcaster is obliged to maintain certain standards up to that point and parents are, according to the ages of their children, to apply increasing levels of supervision thereafter.⁴⁴ And yet, who is seen as holding the primary responsibility in this instance?

Research published by the ITC in 1999 showed that viewers do not accept that the broadcaster has total responsibility for protecting children from viewing unsuitable material. In answer to the question 'Do you think it is mainly the responsibility of parents or of broadcasters to make sure that children don't see unsuitable programmes?' respondents provided the following results:

⁴⁰ ABA, 37.

⁴¹ BBC, BSC and ITC, 18.

⁴² ABA, 37.

⁴³ ABA, 23.

⁴⁴ Broadcasting Standards Commission (1998), *Monitoring Report 6*, 18.

- 62% said responsibility lay with parents;
- 6% said responsibility lay with broadcasters;
- 31% said the responsibility lay with both equally.⁴⁵

Parents were more likely to view it as their responsibility when compared to respondents without children (65% and 60% respectively). This figure peaked among parents with children in the age category 4-9 (71%).⁴⁶ While broadcasters should adhere to scheduling considerations and be in tune with the programme's target audience, it remains the responsibility of parents in the home to guide what their children – particularly those under 10 – are viewing.

Unsuitable material is broadcast. Children can be exposed to it. L. Rowell Huesmann and Marko M. Skoric ask

So what is the regulatory solution that seems best – better parental control, more government control, training children not to be affected by media violence, better rating systems for violence, boycotting sponsors of violence? Some part of all of these may be needed. Each society needs to make decisions based on what is best for it?⁴⁷

Accepting that how a regulator approaches this will be culturally specific, what general points can be proffered at this stage? Parents request more information at key junctures. In order to vet programmes watched by children, parents request more details pre-transmission and on-screen. More detailed information to be provided in listings is also requested. Such a triptych of information, it is believed, will allow parents to make informed decisions and thus, will help inform parental control.⁴⁸ While many parents believe their children's television consumption is relatively under control, there are those who fear the increasing number of channels which are becoming available. Consequently, one sees a corresponding need for improved awareness and understanding of the various technological aids available to help parents control access to television.⁴⁹ ⁵⁰ When such devices are operational and parents have equipped themselves with the relevant knowledge with which to work them, Pam Hanley believes the positive benefits rather than the negative drawbacks should be stressed at all times. As a result, she states that a balance must be maintained 'between control and trust, between prohibition and encouragement to experiment, and between responsibility and freedom.' Without these, she believes, the imposition of control mechanisms 'can seem like a denial of trust.'⁵¹

⁴⁵ Independent Television Commission (1999), *Television: The Public's View*, a report by G. Cumberbatch, 65.

⁴⁶ ITC (1999), 65.

⁴⁷ Huesmann, L.R. and M.M. Skoric (2003), "Regulating Media Violence: Why, How, and by Whom?" in E.L. Palmer and B.M. Young (eds.), *The Faces of Televisual Media – Teaching, Selling to Children*, 219-240, at 237.

⁴⁸ BBC, BSC and ITC, 4.

⁴⁹ BBC, BSC and ITC, 4. Devices include PIN numbers and mechanisms to block out certain stations and/or programmes. See Chapter 5 for further information.

⁵⁰ For a sample of approaches available, see Appendix VIII.

⁵¹ BBC, BSC and ITC, 14.

12.7. Concluding remarks

There is a general assumption that television can, and does, play an important role in the lives of children. It can inform, provoke and entertain. Such positive benefits are seen as far outweighing the negative concerns.⁵² Indeed television is not the medium causing most anxiety among parents – the internet causes far greater concern.⁵³

This chapter showed that children can, and do, come into contact with unsuitable material. To minimise these incidents, broadcasters are advised to be sensitive to scheduling considerations and to know more intimately their target audiences. Based on information reviewed, they might increase the frequency of pre-transmission warnings and on-screen information. In addition, they might take a more detailed approach to information provided in television listings. Parents, however, bear the bulk of responsibility for vetting what their children watch. Viewed from one perspective, requests for information and more gadgets by which to monitor portrays a situation where parents are actively involved in supervising their children's viewing. From another perspective, however, research has shown that while the intent might be there, an increasing number of children are subject to minimal supervision, decreasing in line with the introduction of more and more channels.

Those under 10 are subject to more consistent regulation than those over 10. As has been seen, a variety of factors account for this. Having information and gadgets therefore is not sufficient if they are not used to inform decision making or to impact positively on children's viewing. Parents have acknowledged that it is their responsibility to monitor viewing in their homes. Greater assistance and instruction needs to be given to ensure that this is so.

What then of children? The impish nature of children means they will seek out information from which adults try to protect them. And yet this is an overly simplistic view. Children may challenge parental supervision and devise ways to circumvent rules but in general, they often accept that such measures are designed to act on their behalf.

Children have likes and dislikes. Similarly to adults, when warned in advance they often avoid what might be upsetting and/or offensive. They can be self-regulating when it comes to television viewing. Adolescent children 'are capable of reading program advice and acting on it if they judge it to be relevant to the situation in which they find themselves.'⁵⁴ What then of restrictions applicable in some households? While accepting the need for protection, many older children would like to be involved in decision making which affects them, to be 'informed participants in the enactment of regulation.'⁵⁵ Rules, it is believed, should be made in conjunction with older children, not descending like sacred tablets from above.

* * * * *

⁵² BBC, BSC and ITC, 19.

⁵³ BBC, BSC and ITC, 48. Here results are shown for the medium that is considered to cause most concern: Internet (51%); Television (31%); Computer games (10%); and, Teenage magazines (8%).

⁵⁴ ABA, 57.

⁵⁵ ABA, 57.

Issues of taste and decency affect all albeit not in the same way. Although all consumers of broadcast media have the right to be shielded from offence and insult, children require greater measures of control and protection. This chapter has outlined concerns particular to this category of viewer and has presented information directly relevant to children. Similarly to adults, children are not a monolith. They have likes and dislikes. Different children are affected by different images. Different age groups require different levels of protection – both internal and external to their homes. Such diversity should be acknowledged in any approach designed and adopted.

Part Four

The Irish experience of 'taste and decency' issues

Part Four

The Irish experience of ‘taste and decency’ issues

Information considered up to this point was gleaned largely from international sources and experiences. Attention now turns to Ireland.

Throughout this report the need for culturally specific material has been highlighted. Chapter 13 provides a demographic snapshot of Ireland at the time of writing. Importance is attached to gaining an insight into the people in this country who might potentially be affected by issues of taste and decency. People’s opinions of, and reactions to, certain material can be shaped, and reshaped, by a number of demographic factors. A person’s geographic origin/location, age, religious persuasion, ethnicity and/or disability can shape how a person views and processes information. Such details influence how an individual may react to broadcast matter and assess issues of taste and decency.

Up to *Part Four*, the approach taken has been decidedly thematic rather than based specifically on the experience of individual regulators and/or broadcasters. This style is now inverted with experience taking precedence over theory. More specifically, the situation in Ireland is considered and the position of the three national television broadcasters is outlined. Information from radio stations where issues of taste and decency have arisen is also considered. Thereafter, the current roles of the Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC) in dealing with matters of taste and decency are outlined. In doing so, the reader is provided with an overview of both broadcast and regulatory positions and consequently, a summation of current practice at the time of writing.

13. Demographic profile of Ireland

13.1. Introduction

What is viewed as offensive is determined by the unique qualities, characteristics, beliefs and traditions of a given society. The composition of a population shapes all these traits. Consequently, each society differs from its neighbours. What is offensive in one society may be acceptable in another. This leads one to ask what are characteristics which shape Irish people today?

Ireland has undergone rapid change in the last ten years of the twentieth century. The composition of its population has altered significantly and the number of inhabitants has increased through immigration and returning emigrants. What follows is a broad overview of the principal changes taking place. The aim is to present a picture of Ireland at the time of this study. Having an appreciation of Ireland's modern makeup is important given the fact that much of the information reviewed is gleaned from international, not home-based, research. It profiles the type of people and the factors which affect how they receive material that has the potential to cause offence and harm.

13.2. Population and urban/rural divide

Table 13.1. presents a figure for the total population of Ireland as recorded in the Census 2002. From figures presented, one sees that the overall population has increased by 291,116 since 1996 to 3,917,203. This is the highest population on record since 1871.¹ In addition, one sees that almost half the population lives in Leinster of which Dublin city and county accounts for 1,122,821. The population of Dublin therefore constitutes one-quarter of the overall population of Ireland. Viewed with the main towns for Munster and Connacht, the overall total is 1,779,727 for the year 2002.² Representing almost half of the country's population, one sees that Ireland is becoming an increasingly urban based society.

¹ www.eu2004.ie/templates/standard.asp?sNavlocator=7,98,113.

² As Ulster only comprises of three counties in this instance, no main town is listed.

Table 13.1.
Population of each Province and total for State³

Province, County or City	1996	2001		
	Persons	Persons	Male	Female
State	3,626,087	3,917,203	1,946,164	1,971,039
Leinster	1,924,702	2,105,579	1,038,015	1,067,564
<i>Dublin</i>	<i>1,058,264</i>	<i>1,122,821</i>		
Munster	1,033,903	1,100,614	550,118	550,496
<i>Cork</i>	<i>420,510</i>	<i>447,829</i>		
Connacht	433,231	464,296	233,194	231,102
<i>Galway</i>	<i>188,854</i>	<i>209,077</i>		
Ulster (part of)	234,251	246,714	124,837	121,877

13.3. Age

Age is another important differential. Table 13.2. cross tabulates the population total by age group specified.

Table 13.2.
Population classified by age group⁴
(collapsed categories)

Age group	Total
0-9	541,720
10-19	598,896
20-29	641,027
30-39	595,582
40-49	521,588
50-59	428,137
60-69	287,726
70+	302,527
<i>Total</i>	<i>3,917,203</i>

The figures portray a very young society. 1,781,643 are under 30 years of age; this is just under half the total population for the country.

13.4. Religion and nationality

The composition of Ireland's population has changed significantly since the 1990s. New people bring new religions and new nationalities into the arena. Ireland can no longer be classified as a purely homogenous society, predominantly made up of white

³ Based on information taken from Census 2002, 'Table 1. Population of each Province, County and City and actual and percentage change, 1996 and 2002.'

⁴ Based on information taken from Census 2002, 'Table 3A. Persons in each province, County, and City classified by age group.'

Catholics. Instead it is beginning to take on characteristics of a heterogeneous society more akin to its European neighbours, where people of different ethnic backgrounds and religious beliefs congregate.

The following tables illustrate these points. They should, however, be accepted as a broad overview as it is not possible to break these figures down to reflect the impact of newcomers and returned emigrants.

Table 13.3.
Population classified by religion 1981-2002⁵

Year	Total	Religion						No religion	Not stated
		Roman Catholic	Church of Ireland (incl. Protestants)	Presbyterian	Methodist	Jewish	Other stated religions		
1981	3,443,405	3,204,476	95,366	14,255	5,790	2,127	10,843	39,572	70,976
1991	3,525,719	3,228,327	89,187	13,199	5,037	1,581	38,743	66,270	83,375
2002	3,917,203	3,462,606	115,611	20,582	10,033	1,790	89,223	138,264	79,094

⁵ Based on information taken from Census 2002, 'Table 5A. Persons in each Regional Authority Area classified by religion.'

Table 13.4.
Population classified by religious denomination, 2002⁶
(includes categories: 'Agnostic', 'Atheist' and 'No religion')

Religions	Total
Roman Catholic	3,462,606
Church of Ireland (incl. Protestant)	115,611
Christian (unspecified)	21,403
Presbyterian	20,582
Muslim (Islamic)	19,147
Orthodox	10,437
Methodist	10,033
Jehovah's Witness	4,430
Buddhist	3,894
Evangelical	3,780
Apostolic or Pentecostal	3,152
Hindu	3,099
Lutheran	3,068
Baptist	2,265
Jewish	1,790
Pantheist	1,106
Agnostic	1,028
Quaker (Society of Friends)	859
Latter Day Saints (Mormon)	833
Lapsed Roman Catholic	590
Atheist	500
Baha'i	490
Brethren	222
Other stated religions	8,920
No religion	138,264
Not stated	79,094
<i>Total</i>	<i>3,917,203</i>

⁶ Based on information taken from Census 2002, 'Table 1. Population classified by religion for relevant censuses from 1881 to 2002.'

Table 13.5.
Population classified by nationality⁷

Nationality		Total
Total Irish		3,584,975
Irish		3,535,676
	Irish-English	20,491
	Irish-American	12,387
	Irish-European	4,172
	Irish-Other	12,249
UK		103,476
Other EU nationality		29,960
Other European nationality		23,105
America (United States)		11,384
Africa		20,981
Asia		21,779
Other nationalities		11,236
Multi nationality		2,340
No nationality		847
Not stated		48,412

13.5. Irish Travellers

Ireland's Travelling community is an indigenous people. Of an overall population of 3,917,203, totals for this community were recorded as follows:

Table 13.6.⁸
Irish Travellers, 2002

Total	Male	Female
23,681	11,708	11,973

13.6. Persons with a disability

The Census took a broad approach to the area of disability. Rather than classifying by recognised disability – e.g. visual impairment and hard of hearing - it chose to identify those with any disability which affected their day-to-day life. Table 13.7 illustrates this point and identifies a total of 323,707 people as having some form of disability.

⁷ Based on information taken from Census 2002, 'Table 5A. Usually resident persons, males and females, present in the State on census night, classified by nationality and age group.'

⁸ Based on information taken from Census 2002, 'Table 1. Irish Travellers in the Aggregate Town and Aggregate Rural Areas of each Regional Authority Area classified by sex.'

Table 13.7.⁹
Persons with a disability

Total persons	Total persons with a disability	Type of disability					Total disabilities	Persons with a disability as % of total population	
		Blindness, deafness, or a severe vision or hearing impairment	A condition that substantially limits one or more basic physical activities	Difficulty in learning, remembering or concentrating	Difficulty in dressing, bathing or getting around inside the home	Difficulty in going outside the home alone			Difficulty in working at a job or business
3,917,203	323,707	78,320	175,830	106,026	86,245	118,142	181,270	745,833	8.3

13.7. Concluding remarks

This chapter charted the many demographic changes experienced by Ireland over the last decade. It identified some of the key changes occurring as a result of increased immigration and the rise in numbers of returned emigrants. In addition, it provided important information on other characteristics of Irish residents in terms of religion, disability, and membership of the Traveller community. A picture of Ireland at the time of writing has therefore been provided. These are some of the factors which shape individual attitudes to matters of taste and decency in an Irish context.

⁹ Based on information taken from Census 2002, 'Table 1A. Persons with a disability in the Aggregate Town and Aggregate Rural Areas of each Regional Authority Area classified by type of disability.'

14. The Irish experience

14.1. Introduction

Information reviewed up to this point has been drawn largely from international experience. Attention now focuses on Ireland. The experience of the three national television broadcasters is considered. Information is also gleaned from radio stations where issues of taste and decency have arisen. The roles of the Broadcasting Commission of Ireland (BCI) and the Broadcasting Complaints Commission (BCC) regarding taste and decency are outlined. In this chapter, therefore, emphasis is placed on providing an overview of the situation at the time of writing and the practice which pertains in the absence of a code on taste and decency.

14.2. Broadcasters

Information has been obtained from a sample of national and local broadcasters, from television and radio, through a series of discussions. Television and radio are considered in isolation, recognising the different contexts, and to keep separate the type of concerns and complaints encountered.

In the absence of a code, the approach taken by broadcasters can be described as idiosyncratic rather than systematic. Information available from one was not always available from another. While there were areas of concern common to all broadcasters, what was important to one was not necessarily important to another. While such gaps negated the possibility of proper analyses across experience, material provided was nevertheless informative. When all factors reviewed in this part are considered, an overview of current practice is provided and issues which Irish viewers and listeners can find contentious/important are highlighted.

14.2.1. Television

Attention is paid to the three national television broadcasters – RTÉ, TG4 and TV3. What follows is a brief outline of the guidelines applied and the experience of each in terms of implementation. Where appropriate, comments are made regarding individual station's attitudes towards matters of taste and decency and the monitoring of such.

14.2.1.1. RTÉ

In regulating areas of taste and decency, RTÉ applies its *Programme-Makers' Guidelines*. Devised in 2002, these guidelines include all themes considered in this report and refer to both in-house production and acquired programming. Material is previewed by RTÉ in order to classify it for transmission. In considering and presenting material, RTÉ states that it takes four principle areas into consideration as appropriate: (i) context; (ii) audience expectation; (iii) scheduling; and (iv) presentation warning. Classifications given by the Irish Film Censor are used for guidance but decisions are also made in-house, especially for films which are not processed by the Censor. The *Programme-Makers' Guidelines* provide criteria for classification. In broadcasting material, on-screen symbols are used. In addition, pre-broadcast warnings are issued as necessary.

Recognition is given to the fact that sex, violence, language and religious sensibilities alternate in importance, something which is affected by the nature of content broadcast in any given year. Complaints regarding sex have diminished over the years and, consequently, it is not the great source of offence it once was. Recognition was also given to the fact that words alternate in force and offence; what caused offence once may be considered benign today. Suicide is regarded as a subject requiring particular sensitivity. Complaints about stereotyping (particularly the objectification of women) are common, while complaints regarding the representation of disability are rare. It is believed that this is largely due to the sensitivity given to particular subject matter by individual programme makers. Home produced programmes attract more complaints when compared to acquired programming.

In practice, RTÉ receives complaints regarding matters of taste and decency. Both advertising and programme matter attracts such complaints but it has been found that, while there is a reasonably steady flow of complaints about advertisements, it is not as consistent for programme content. Dealing with complaints has been made difficult by the absence of clear definitions of what constitutes 'taste' and 'decency' and comprehensive guidelines to be adhered to. Some complaints can easily be categorised according to sex, violence, language while some are less easy to classify and/or straddle a number of categories. Language has proved particularly problematic as its acceptance is often inconsistent. On the one hand, it is believed that there is a greater acceptance for coarse words on Irish television when compared to other countries. On the other hand, while accepting it in context, it may not be as acceptable in live programming or where it is deemed gratuitous. Similarly to information reviewed about British attitudes towards the BBC, Irish people tend to have high expectations of public broadcasting. Consequently, the use of bad language, for example, may not be considered acceptable on RTÉ as it might on another station.

Material broadcast prior to the watershed can prove problematic. With the roll out of more adult material, complaints can be made that certain material is unsuitable for young viewers. Subject matter dealt with in soap operas, for example, often attracts complaints.

Information was provided regarding telephone calls made to RTÉ in the fifty weeks leading up to Christmas 2004. Those which might be classified as issues of taste and decency have been extrapolated and are presented here in table format and pie charts.¹

¹ Hand coded and compiled by S. Traynor according to headings used in this report by the BCI. They are not, therefore, official RTÉ classifications.

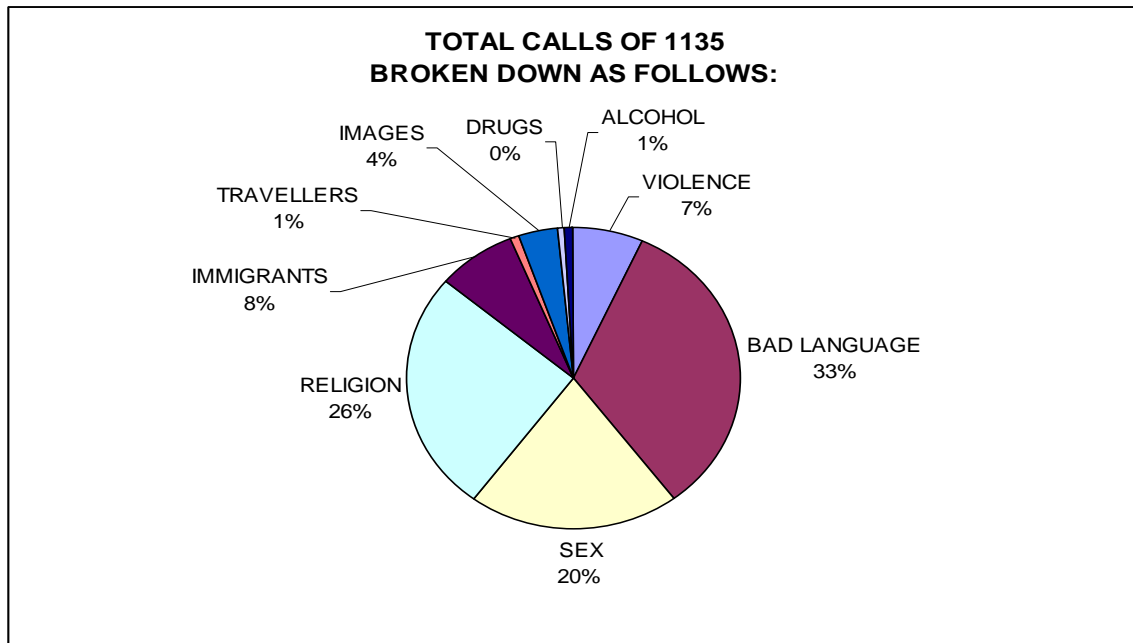
Table 14.1
Phone complaints made to RTÉ in 2004⁴¹¹

	TELEVISION		RADIO	
	PROGRAMME ITEMS	CALLERS	PROGRAMME ITEMS	CALLERS
Violence	21	70	3	10
Bad Language	22	284	27	87
Sex	51	174	13	55
Religion	16	264	13	35
Immigrants	15	52	10	37
Travellers	2	3	2	5
Images in News, Current Affairs, Documentaries	19	44	0	0
Drugs	1	3	1	1
Alcohol	3	3	2	8
Imitative Behaviour	0	0	0	0
TOTAL	150	897	71	238
Any of the above featuring in children's programming	39	94	3	3
TOTAL ITEMS				221
TOTAL CALLERS				1135

⁴¹¹ Information was gathered from 50 weeks leading up to Christmas 2004.

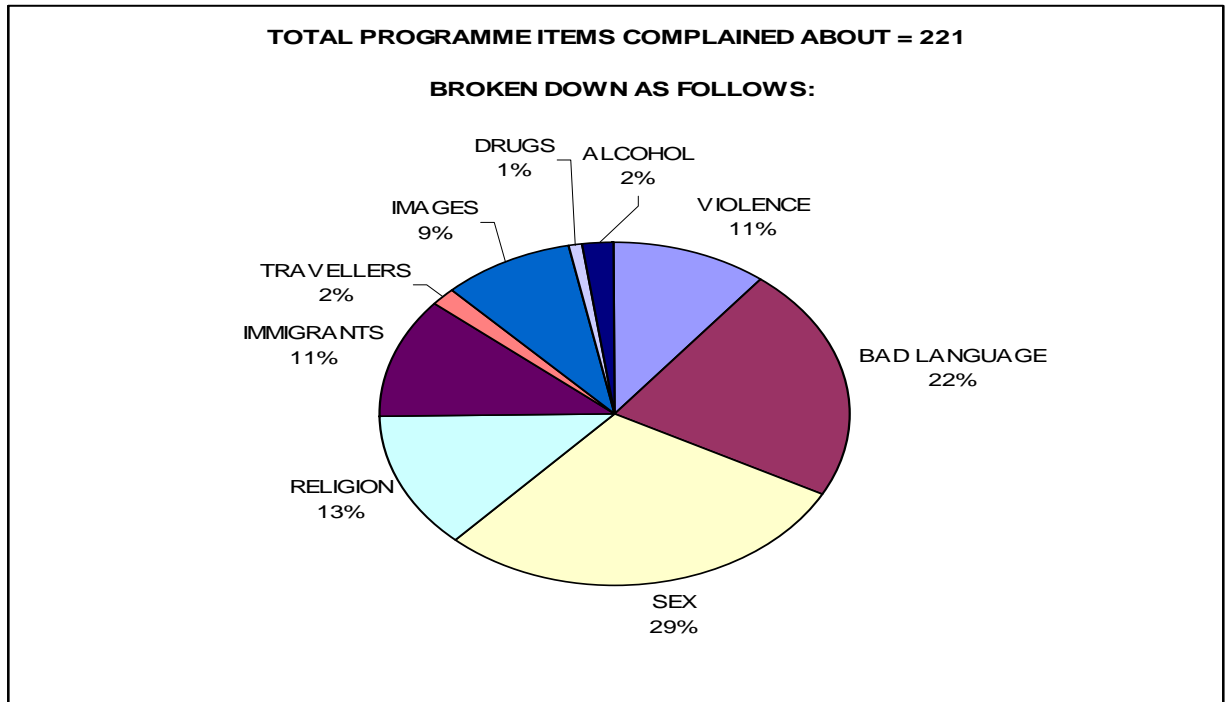
Represented in a pie chart, the areas attracting most attention are highlighted more succinctly. One sees, therefore, that language, religious sensibilities and sex are to the forefront, with cultural sensitivities and violence following thereafter.

Figure 14.1
Phone complaints made to RTÉ in 2004



Complaints have also been made vis-à-vis these themes as they appear in children’s programming. Figure 14.2 illustrates the nature of complaints made.

Figure 14.2
Phone complaints made to RTÉ in 2004
(children’s programmes)



The order of complaints changed with sex emerging as a priority followed by language and religion. Violence trails slightly behind cultural sensitivities. Comparing both charts, one sees that while violence might be problematic, it does not always elicit as many complaints as one might have originally suspected.

* * * * *

And the future? RTE would like to see a code which lays parameters down succinctly. In so doing, it could provide a proper basis for the adjudication process. Above all, it needs to provide for flexibility and changes in societal opinion.

14.2.1.2. TG4

As a public service broadcaster, TG4 also applies RTÉ’s *Programme-Makers’ Guidelines*. TG4’s experience is, therefore, similar to RTÉ’s regarding programme content. Sex, violence, language and religious sensibilities have the potential to cause most offence. Animal rights can also be contentious. The treatment of suicide has required particular sensitivity. Pre-broadcast warnings are used as appropriate.

TG4 referred to audience expectation of its station. Here it felt that, due to the nature of the programmes broadcast, its viewers tend to expect innovation and new material. In its scheduling of acquired programming – particularly from non-English speaking countries – it has found that people appear to be more accepting of themes presented

in that context than they might perhaps be if the programme was home produced or if the same themes were presented in a more familiar setting.

Scheduling is given prime consideration. This is particularly so with material which can be more graphic in its depiction– for example, foreign language films. Audience expectations are taken into account and consequently, adjustments are made according to need – for example, variations can be made to summer, winter and Christmas schedules to allow for variations occurring in children’s viewing patterns at different times of the year.

Particular care is paid to audience needs and expectations of programming. The 9pm watershed is important but TG4 maintains it has a number of different watersheds coming into effect throughout the day. Cognisance is taken of likely viewing patterns in different day-parts by primary and secondary school children. The period from 6pm to the watershed at 9pm is the period which attracts most complaints.

Finally, broadcasting in two languages creates different concerns. Where coarse language is used, for example, viewers may complain about the need for such words. Conversely, Irish speakers may complain that the subtitled version dilutes the meaning of what was said in Irish, thus reducing the impact of the scene. Consequently, complaints can emerge from both sectors.

14.2.1.3. TV3

TV3’s policy is not to offend viewers unnecessarily. As Ireland’s only commercial television station, TV3 applies its own set of internal guidelines. These cover the areas of (i) bad language; (ii) sex; (iii) violence; and (iv) general considerations.

All acquired programming is viewed by programme viewers who are obliged to adhere to TV3’s internal guidelines. In the event that a programme is considered to be problematic in regard to issues of taste and decency, content is referred to senior management who review the potentially offensive material. In addition, TV3 invokes a further mechanism whereby it uses an internal review committee to examine material should this become necessary.

In adjudicating upon any potentially offensive material, context is always taken into account. It is considered to be of prime importance in judging material in such a subjective area. Complaints received have generally centred on violence and sex but rarely on language. The number of complaints typically rises after particular programmes and also after advertising campaigns promoting the role of the Broadcasting Complaints Commission (BCC). Similarly to TG4, the 6-9pm slot is also problematic as viewers expectations of what should be shown varies greatly. It is estimated that this timeframe attracts c.60% of all complaints made.

14.2.2. Radio

Radio provides a different context to television. Heavier emphasis on music output means less time is often devoted to discussion and features. Nevertheless, problems can, and do, arise. Stations were chosen for this study where issues of taste and

decency had arisen. Of the sample stations selected, informal advice is given to guide presenters on air and in the presentation of live programmes and material.¹

Radio audiences are often more contained. Due to the targeting of specific audiences based on a certain age and/or type of service provided, stations tend to be more knowledgeable of the people they serve. Indeed these considerations are taken into account by a station in formulating their licence application. Problems tend to emerge in two principal ways – when people outside the target group tune in or when material is broadcast at inappropriate times (for example, during the school run).

What follows is a brief synopsis of information provided by a sample of stations. It is, therefore, a general overview.

14.2.2.1. Today FM²

Being a national broadcaster with a large cross section of age groups listening to the station, Today FM believes that it is more aware of what is and is not permissible in this context. It is a commercial entity and maintains that being offensive to its audience does not make commercial sense.

Having a broad based audience, Today FM requires presenters to avoid offence, defamation and libel. As phone-ins are not a significant element of this station's programming, it believes that complaints are rare as many presenters are self-regulating, avoiding issues likely to cause offence and conscious of the broad based audience they serve.

Caution is applied in the scheduling of material. Adult material, for example, would not be broadcast during school run times. Some of its comedy has attracted complaints but Today FM maintains that, while it aimed to push boundaries in this respect, it has not been its intention to cause offence.

14.2.2.2. Spin 103.8³

Spin 103.8 describes itself as a station with a high music output, where discussion is kept to a minimum. Consequently, it considers opportunities for issues of taste and decency to arise as limited. Notwithstanding this, instructions are given to staff on how to deal with potentially offensive material. Presenters are told to avoid, where possible, religious or sexual swear words or culturally insensitive remarks.

Pre broadcast and pre item warnings are provided where possible. Clear and specific warnings must be given and repeated at appropriate junctures throughout the item. While the station gears itself in tone and content to meet the needs and expectations of its target audience of 15-30 year olds, it does take into account the scheduling of material at what it considers are appropriate times. Its midday chat show, for example, often deals with sexual health among other issues. Spin 103.8 believes it is broadcast when the younger element of its audience is at school or likely to be under parental supervision.

¹ In the absence of a code, and being given on an in-house basis, such advice can only be described as informal.

² Today FM is a national broadcaster, serving an audience of adults over 18.

³ Spin 103.8 serves Dublin city and county, targeting the 15-34 year age bracket.

14.2.2.3. FM104⁴

Without clearly defined parameters, and accepted definitions of taste and decency, it is often possible to cause offence albeit not always intentionally. In addition, target audience and expectations play a key role where material is geared specifically towards 15-34 year olds. Consequently, those outside this category who tune into the station may be offended by its content. Context and presentation, therefore, remain key considerations for this station.

Scheduling is a key issue. FM104 would support a watershed where information and/or discussion suitable to a more adult audience is broadcast after 9.30pm. Mechanisms are also used in-house to control the flow of information. In live discussions, for example, there is a ten second delay mechanism. Pre broadcast and pre item warnings are also given as appropriate.

14.2.2.4. Red FM⁵

Red FM would welcome guidelines in this respect, to set out parameters vis-à-vis what is and what is not acceptable. The preference of this station is for the code to be as specific as possible.

As a young station aimed at 15-34 year olds, Red FM would be more liberal in its approach, for example, when compared to those broadcasting to a larger, more diverse, audience. Greater allowance, therefore, is made for sexual innuendo than might otherwise be on a station targeting older people. Guidelines are given to presenters to both avoid and to contain certain situations. Profanity is not tolerated or gratuitous remarks. Certain language and/or phrases are also not allowed. Red FM has noted, however, changes in societal attitudes and is prepared to vary its approach as appropriate.

14.2.2.5. 98FM⁶

Emphasis at 98FM is placed on training staff to know the style of the station and how matters of taste and decency should be approached. Instruction in libel, for example, is provided on a regular basis and such sessions include other matters such as incitement to hatred and racism. Checks and internal reviews are a regular feature with feedback given by the Programme Director as appropriate.

Standards set apply across the board. Talk topics are previewed to ensure fairness and likely listener response is also considered in particular cases, with programmes going to air in delay to avoid the broadcast of offensive material. Controls are also exercised in news broadcasting. Mechanisms in place, 98FM believes, ensure that there is little room for presenters to make comment or to express views that might cause insult or offence.

* * * * *

Approaches differ and the principal areas causing offence may alternate in status. Avoiding deliberate offence to the viewer and/or listener, however, lies at the core of any approach taken.

⁴ FM104 serves Dublin city and county, targeting the 15-34 year age bracket.

⁵ Red FM serves Cork city and county, targeting the 15-34 year age bracket.

⁶ 98FM serves Dublin city and county, targeting the 25-44 year age bracket.

14.3. Watersheds Irish style

In Ireland, a watershed exists on television but does not pertain to radio. Of the three national television broadcasters, 9pm is the preferred time for commencement. On none of the four television channels, however, is there an instant changeover from family material to adult content. Instead there is a gradual roll out of material from evening onwards in preparation for this change. In addition, while 9pm might signal the advent of adult content, all three television broadcasters drew attention to the existence of a less formal 10pm watershed where material which is decidedly over 18, not suitable for children who may still be viewing after 9pm, is transmitted on occasion.

In its consideration of watersheds, Chapter 4 drew attention to the fact that calls for a later watershed in the United Kingdom (UK) met with resistance. This was largely due to the fact that some 70% of households did not contain children and were, therefore, entitled to have access to adult material at an appropriate time – in this case, post 9pm. What then of Ireland? Collapsing information obtained from the Central Statistics Office (CSO), Table 14.2 shows the number of households with children and those without.⁷

Table 14.2
Irish households, 2002

Households	Number of	Percentage
With children	684,369	53.37%
Without children	597,857	46.63%
Overall total	1,282,226	100%

The situation in Ireland is, therefore, considerably different to that in the UK. More households having children is not necessarily an argument for a later watershed, however. One must recognise that 597,857 households is a substantial number of adults who may consider that they have the right to view adult material at an appropriate time.

Breaking down the figure for households with children, Table 14.3 shows children divided into three principal age groups. The distribution is fairly even across the State with those in the 5-12 years category being slightly higher.

⁷ Central Statistics Office, Dublin (2002), *Census 2002*, www.cso.ie: 'Table 3 Number of private households classified by composition and size.'

Table 14.3
Households with persons aged 18 years and under⁸

Province	Number of private households with persons aged		
	Under 5 years	5-12 years	13-18 years
Leinster	116,190	151,060	134,084
Munster	57,950	79,311	71,914
Connacht	22,905	32,350	30,804
Ulster (part of)	13,553	18,799	17,088
State	210,598	281,520	253,890

14.4. Broadcasting Commission of Ireland (BCI)

Complaints relating to programme material are, as appropriate, forwarded by the BCI to the BCC for consideration and, where necessary, adjudication. The main role the BCI plays at present regarding matters of taste and decency tends to be in consideration of material before it is transmitted and/or on request from a broadcaster. The Commission drafted *Procedures and practices for considering certain television programme content* and *Procedures and practices for assessing exceptional television programme material* in 2000. These guidelines remain in effect today. Essentially, the first document refers to contractual obligations of each licensee regarding potentially offensive material. While no specific definition of taste and decency exists at present, Section 9.1. (d) of the *Radio and Television Act, 1988* obliges licensees not to offend against such standards. Section 4.7 of the Act obliges contractors to comply with the provisions and spirit of this Act. Most relevant to the present discussion, this document recommends that licence holders:

- analyse broadcast programme schedules;
- maintain ongoing dialogue with the BCI regarding programme issues including content and compliance issues;
- issue guidelines on specific aspects of programming deemed appropriate and adhere to guidelines introduced by the BCI;
- respond to, and act on, complaints from the public or sent via the BCI/BCC where appropriate.

This primary document refers to programme material generally; it does not refer, however, to all material. Consequently, it was considered necessary to develop an approach to cover material which was deemed ‘exceptional’, as significantly different to other content broadcast. *Procedures and practices for assessing exceptional television programme material* was produced with this aim at its centre. Exceptional circumstances were identified as:

- the proposal by the television programme service Contractor to broadcast a film, a version of which has been refused certification of the Office of the Official Censor of Films in accordance with the *Censorship of Films Act 1923* or the *Video Recording Act 1989*;

⁸ Central Statistics Office (2002), *Census 2002*. Information derived from ‘Table 16 Private households with persons aged 18 years and under in each Province, County and City.’

- the proposal by the television programme service Contractor to broadcast programme material, which the Contractor feels requires consideration in the context of its statutory or contractual obligations.

When this occurs, additional practices and procedures are invoked as necessary. More specifically, the following will apply:

1. The Contractor should submit a copy of the programme material, which it proposes to transmit, at least two months in advance of the intended transmission date. This should be in a format approved by the Commission and be accompanied by a written submission that sets out why the Contractor is of the view that the material will comply with its statutory and contractual obligations. Appropriate reference should be made to section 9 (1) (d) and (e) of the 1988 Act.
2. Following receipt of such a submission, the Executive in consultation with the Chairperson, will view the programme material/film and consider the written documentation. This will be done in the context of the relevant provisions in the 1988 Act, the EU Directive [*Television Without Frontiers*] and the terms of the broadcaster's Contract with the Commission.
3. The emerging report will be presented to the Members of the Commission for consideration and decision. The report will cover the issues raised and examined by those who considered the submission and any recommendations emerging from their discussion.
4. Where deemed necessary by the Commission, the full board of the [BCI] may also be required to view the material and consider the submission before making a final decision. A decision on whether the Commission should do this will be made by the Members on a case by case basis.

Reviewing material submitted, the BCI issues a decision. It will decide according to the following criteria:

- The material may be broadcast as submitted without infringing the terms of the contract.
- The material may be broadcast subject to the inclusion of, or the modification of, audience guidance/warnings. The Commission may provide a specific direction in this regard.
- The material may be broadcast subject to a scheduling change and the Commission may provide a specific direction in this regard.
- The material may not be broadcast.

TV3's intention to broadcast *Natural Born Killers* in 2000 influenced the production of *Procedures and practices for assessing exceptional television programme material*. In this instance, it was discovered that despite the fact that this film had been refused a certificate for cinematic distribution in Ireland, it could be shown on television. Furthermore, it was found that 'the Censorship of Films Act, 1923 is not applicable to material which is broadcast on independent television services.'⁹ In broadcasting this

⁹ Letter from IRTC Chairman to then Minister for Justice, Equality and Law Reform, John O'Donoghue: 23rd August 2000.

film, TV3 was mindful, however, of both scheduling and pre-broadcast warnings due to the high level of violence omnipresent in the film.

14.5. Broadcasting Complaints Commission (BCC)

Founded in 1976, the Broadcasting Complaints Commission (BCC) is an independent statutory body. Its main legislative basis is derived from the *Radio and Television Act, 1988* and the *Broadcasting Act, 2001*. Its primary purpose is to consider and to adjudicate upon complaints about material broadcast, both programmes and advertisements, in relation to the following areas:

- Impartiality in news and current affairs;
- Taste and decency;
- Law and order,
- Privacy of an individual;
- Advertising codes;
- Slander;
- Published matters in relation to RTÉ;
- Ministerial prohibitions.

According to the BCC, ‘Any viewer or listener can refer a complaint to the [BCC] if they are not satisfied about broadcasting content on an Irish broadcasting service under any of the above listed categories.’¹⁰ Complaints submitted are then forwarded to the relevant broadcaster who is allowed twenty-one days to reply. Outside bodies involved in production also have the right to reply.

14.5.1. Complaints process

Complaints can be dealt with in two ways. Firstly, a complainant may be satisfied by the response given by the relevant party and the matter is concluded at that point. Secondly, if the complainant is still not satisfied, all relevant complaint correspondence, together with a recording of the relevant broadcast, will be circulated to Board members of the BCC for consideration and decision.

14.5.2. Nature of complaints

As outlined above, complaints are considered under a number of principal headings. Of these ‘impartiality’ attracts the most with issues of ‘taste and decency’ coming in second place. Table 14.4 provides figures for 2003 and shows that these two categories attract the majority of complaints with ‘advertising codes’ following thereafter.

¹⁰ Broadcasting Complaints Commission (2003), *Annual Report 31st December 2003*, 3.

Table 14.4
Complaints made to the BCC, 2003¹¹

Category of complaint	Quantity
Impartiality	87
Taste and decency	52
Law and order	5
Slander	8
Invasion of privacy	4
Advertising codes	20
<i>Total:</i>	176

What then of the complaints which come under the heading of ‘taste and decency’? What follows is a breakdown of the number of complaints requiring adjudication by the BCC Board.¹² Separate tables are provided for the years 2001-2003 for purposes of clarification.

¹¹ This covered the period of nine months from 31 March to 31 December 2003. Total includes 18 complaints held over from the period 31st March 2002 to 31 March 2003.

¹² This was coded and presented according to the principal headings considered throughout this report. Classifications used are not, therefore, official BCC classifications.

In 2001, 14 complaints were decided on by the Board. The following table outlines the results.

Table 14.5
Complaints made to the BCC, 2001¹³

	RTÉ	
	<i>Television</i>	<i>Radio</i>
Respect and dignity ¹⁴		1 ¹⁵
Coarse language		
Violence		
Sex		
News, current affairs and documentaries		
Drugs, alcohol and imitative behaviour		
Bad taste ¹⁶		
<i>Total number of complaints for taste and decency</i>	1	
<i>Total number of complaints upheld for taste and decency</i>	0	

¹³ BCC (2001), *Annual Report* up to 31 March.

¹⁴ Contained in this category are religious sensibilities, cultural sensitivities (e.g. Indigenous peoples, non-mainstream groups, etc.) and stereotyping. Material that proved offensive but could not be classified neatly into the above categories has been included as being in 'bad taste.'

¹⁵ Complaint 6.4 (regarding Travellers).

¹⁶ Material that proved offensive but could not be classified neatly into the above categories has been included as being in 'bad taste.'

Eighteen complaints were processed by the Board in 2002. Three pertained to ‘taste and decency.’

Table 14.6
Complaints made to the BCC, 2002¹⁷

	RTÉ		TV3
	<i>Television</i>	<i>Radio</i>	
Respect and dignity ¹⁸		1 ¹⁹	
Coarse language			1 ²⁰
Violence			
Sex			
News, current affairs and documentaries			
Drugs, alcohol and imitative behaviour			
Bad taste ²¹		1 ²²	
<i>Total number of complaints for taste and decency</i>	3		
<i>Total number of complaints upheld for taste and decency</i>	1 ²³		

¹⁷ BCC (2002), *Annual Report* up to 31 March.

¹⁸ Contained in this category are religious sensibilities, cultural sensitivities (e.g. Indigenous peoples, non-mainstream groups, etc.) and stereotyping.

¹⁹ Complaint 5.5 (religious sensibilities).

²⁰ Complaint 5.12.

²¹ Material that proved offensive but could not be classified neatly into the above categories has been included as being in ‘bad taste.’

²² Complaint 5.9 (discussion about Charlie Haughey’s health by non medical people).

²³ Complaint 5.12.

In its first report of 2003, the Board of the BCC processed fifty three complaints.²⁴ Of these, twelve could be classified as issues of ‘taste and decency.’

Table 14.7
Complaints made to the BCC, 2003(a)

	RTÉ		TG4	Today FM	FM104
	<i>Television</i>	<i>Radio</i>			
Respect and dignity ²⁵		1 ²⁶			1 ²⁷
Coarse language		3 ²⁸		1 ²⁹	
Violence	1 ³⁰				
Sex					
News, current affairs and documentaries	1 ³¹		1 ³²		
Drugs, alcohol and imitative behaviour	1 ³³				
Bad taste ³⁴	1 ³⁵			1 ³⁶	
<i>Total number of complaints for taste and decency</i>	12				
<i>Total number of complaints upheld for taste and decency</i>	1 ³⁷				

²⁴ BCC (2003a), *Annual Report* up to 31 March.

²⁵ Contained in this category are religious sensibilities, cultural sensitivities (e.g. Indigenous peoples, non-mainstream groups, etc.) and stereotyping.

²⁶ Complaint 5.20 (religious sensibilities).

²⁷ Complaint 5.5 (racist comment).

²⁸ Complaints 5.6 (about both language and sex), 5.29 and 5.36.

²⁹ Complaint 5.8.

³⁰ Complaint 5.32 (cruelty to animals).

³¹ Complaint 5.31 (news coverage of a murder).

³² Complaint 5.41 (coverage of autopsy on Euronews).

³³ Complaint 5.19 (coverage of glue sniffing, including details of method, on news).

³⁴ Material that proved offensive but could not be classified neatly into the above categories has been included as being in ‘bad taste.’

³⁵ Complaint 5.42.

³⁶ Complaint 5.9.

³⁷ Complaint 5.31 (news coverage of a murder).

The second report of 2003 covered the nine months up to December 2003. During this period, the Board of the BCC adjudicated on twenty nine complaints.³⁸ Of these, eleven fell within categories of taste and decency.

Table 14.8
Complaints made to the BCC, 2003(b)³⁹

	RTÉ		FM104	98FM	Newstalk	WLR
	Television	Radio				
Respect and dignity ⁴⁰	1 ⁴¹	2 ⁴²			1 ⁴³	1 ⁴⁴
Coarse language	1 ⁴⁵					
Violence	1 ⁴⁶					
Sex			1 ⁴⁷			
News, current affairs and documentaries	1 ⁴⁸					
Drugs, alcohol and imitative behaviour						
Bad taste ⁴⁹			1 ⁵⁰	1 ⁵¹		
<i>Total number of complaints for taste and decency</i>	11					
<i>Total number of complaints upheld for taste and decency</i>	3 ⁵²					

³⁸ One complaint was deferred to 2004.

³⁹ BCC (2003b), *Annual Report* up to 31 December 2003.

⁴⁰ Contained in this category are religious sensibilities, cultural sensitivities (e.g. Indigenous peoples, non-mainstream groups, etc.) and stereotyping.

⁴¹ Complaint 5.20 (religious sensibilities).

⁴² Complaints 5.16 (racist) and 5.28 (stereotyping).

⁴³ Complaint 5.25 (racist).

⁴⁴ Complaint 5.14 (Travellers).

⁴⁵ Complaint 5.23 (also admission of drug taking).

⁴⁶ Complaint 5.27.

⁴⁷ Complaint 5.4.

⁴⁸ Complaint 5.10 (depiction of Iraq war in current affairs programme).

⁴⁹ Material that proved offensive but could not be classified neatly into the above categories has been included as being in 'bad taste.'

⁵⁰ Complaint 5.2 (simulated flushing of puppy down toilet).

⁵¹ Complaint 5.3. ('lewd' questions in a competition).

⁵² Complaints 5.2, 5.3 and 5.4.

Tables 14.4 to 14.8 showed the number and nature of complaints made. Results from these four tables are now collapsed. Information is presented according to year and medium it appeared on. Doing so, shows the breakdown which occurs between television and radio in this instance.

Table 14.9
Complaints on taste and decency
(collapsed categories)

Annual Report	Total	Total for taste and decency	Total upheld	Television	Radio
2001	14	1	0	0	1
2002	18	3	1	1	2
2003(a)	53	13	1	5	8
2003(b)	29	11	3	4	7
<i>Overall totals:</i>	114	28	5	10	18

Over the past three years, there has been an increase in the number of complaints made vis-à-vis taste and decency. Table 14.9 also shows that complaints are at present made predominantly about radio, and not television, content as one might have expected.

* * * * *

The absence of a code to govern issues of taste and decency, with clear parameters regarding what is included and excluded, has created problems for the BCC regarding the acceptance of its remit and thus, its jurisdiction. While the new code, when produced, will affect *all* broadcasters, public and independent, the applicability of present legislation is not all inclusive.⁵³ In recent times, this has been highlighted in the BCC's dealings with RTÉ. Established under different legislation than the independent sector, RTÉ questioned whether, in the absence of a code, the BCC was in a position to consider complaints made against it under the banner of taste and decency. A compromise has been reached. In the interim, RTÉ has accepted that the BCC will process complaints concerning taste and decency but such adjudication is to be carried out under the legislation governing RTÉ and not that governing the independent sector.

14.6. Irish Film Censor's Office (IFCO)

The Irish Film Censor's Office (IFCO) classification of films affects how films are subsequently classified for television. Classifications generally inform scheduling decisions by broadcasters.⁵⁴ It is interesting, therefore, to look briefly at the guiding

⁵³ In 1992, the BCC's remit was extended to the independent broadcasting sector and it accepted complaints under taste and decency in relation to independent stations. There was no such provision in the *Broadcasting Authority Act, 1960* as amended by the *Broadcasting Authority (Amendment) Act, 1976*, which applies to RTÉ.

⁵⁴ Classifications ascribed by the IFCO are discussed in Chapter 5.

principles which underpin IFCO's decision-making process and the attitudes that its recent research has unveiled.

For IFCO, three main principles guide its classification of films. These are as follows:

- We believe that adults (i.e. persons over 18) should be free, within the law to choose what they choose what they wish to view.
- We have a statutory duty to protect children and young persons from harm.
- We strongly encourage and promote the exercise of parental responsibility.⁵⁵

Essentially, it sees its role as balancing the protection of young people with allowing freedom of expression which is in keeping with the values of Irish society today. In 2003, IFCO classified 529 cinema works (and 6504 videos). Not all films broadcast on television, however, are classified by the Film Censor – made for television films are viewed to be the responsibility of broadcasters. IFCO's decisions, therefore, have some, but not complete, influence on scheduling decisions made by broadcasters thereafter.

It is generally accepted that people are more accepting of films viewed in cinema or available on video than those broadcast on television. A different set of values is therefore used. Nevertheless attitudes towards film material and to the classifications ascribed is interesting to view albeit having no direct correlation with attitudes exhibited to television programming. Research carried out by IFCO in 2004 discovered that parents viewed drugs/drug taking and violence as a primary concern in films, followed by racial references and underage drinking of alcohol. It also found that 'Sexual activity/dialogue is a cause of less concern today, and most parents comfortably distinguish between sexual content and nudity. Swearing and strong language is very low down on concern priorities.'⁵⁶ From information reviewed earlier in this report, this contrasts with priorities determined in broadcast media where violence, sex and language came out on top. What then of the classifications ascribed by the Censor? Ninety three per cent of parents asked said they regularly checked the classification rating before allowing their children to watch films. This does not translate, however, into blind adherence to the ratings given. A third of those interviewed believed that classifications were often too strict. The following results provide more detail in this respect:

- For the PG classification, around 1 in 4 believe the classifications are often or sometimes too strict (versus 17% who feel it is not strict enough);
- Just over 40% of parents believe that some 12PG rated films have been "too strictly" classified...
- 45% of parents feel 15PG rated films are often or sometimes seen as too strictly rated, while 38% feel that, on occasions, they were too lenient.⁵⁷

⁵⁵ www.ifco.ie.

⁵⁶ IFCO (2004), *Parental Attitudes & Usage Survey of Film Classification*, 4.

⁵⁷ IFCO, 4.

Parents may consult ratings but how far they follow them cannot be determined conclusively. It has been found that the majority of parents are happy to allow their children to view some films with a higher/older classification rating; that it is ultimately their decision to allow this. Some 86% of those surveyed believed they ‘should have the final say on what their children can and cannot watch on film and video/DVD. Parents readily acknowledge that the current classification rating is an important guide but that ultimately the final decision is theirs.’⁵⁸ Accepting that content has the potential to harm and/or influence behaviour in children, film is seen as less invasive than television.

Parents’ direct involvement with their children’s visits to cinema decreases as children grow up. This is similar to the pattern observed vis-à-vis parental supervision of children’s television viewing. More specifically, IFCO discovered that

Parents’ involvement in accompanying their children to the cinema falls off after 12 years of age (from almost 90% for under 12s to around half among 12-14 year olds); a further significant fall off is evident among 15+ year olds – only 1 in 5 parents claim that they ever accompany their 15+ year old to the cinema.⁵⁹

It is interesting to note that in discussing the classification of films, ‘A majority of parents believe that it is “the overall context and underlying messages” of a film that should be the basis for classification not individual scenes.’⁶⁰ Similarly to broadcast media, therefore, the context of presentation affects how material is assessed by the viewer.

14.7. Existing research into media attitudes

A trawl of market research companies, advertising agencies and related organisations was carried out to ascertain what research has been carried out regarding attitudes to areas considered in this study. The results were limited as it was often difficult to determine what exists due to the fact that any potentially relevant material was client owned and thus, inaccessible. Information exists regarding attitudes to advertising but an attitudinal profile to violence, sex and language was not obtained.⁶¹

Whatever level of survey data might exist, access is neither forthcoming nor guaranteed. The need for the BCI to carry out independent research to determine Irish attitudes towards issues of taste and decency is therefore highlighted.

⁵⁸ IFCO, 9.

⁵⁹ IFCO, 8.

⁶⁰ IFCO, 5.

⁶¹ For an example of attitudes to broadcast advertising, see Amárach/Edelman (2004), *MOMS Ireland Survey*, May. Attitudes to alcohol are dealt with in Anders Hansen’s 2003 report: *The portrayal of alcohol and alcohol consumption in television news and drama programmes*.

14.8. Concluding remarks

While experiences and procedures differ among broadcasters, common characteristics do exist. When compared, the following points emerge. Each broadcaster consulted

- tries to contain, rather than to incite, occasions where issues of taste and decency may arise.
- gives direction to its front line people on how to avoid and/or contain such situations – by both formal and/or informal means;
- recognises the need to pay attention to (i) context; (ii) scheduling; (iii) audience expectation; and (iv) providing pre broadcast and pre item warnings as appropriate;
- identifies live programming and phone-in shows as problematic;
- has shown that the most problematic areas are: (i) sex; (ii) violence; (iii) language; (iv) religious sensibilities; and cultural sensitivities (incorporating ‘Travellers’ and ‘Immigrants’) albeit alternating in significance according to station, medium and time viewed/heard.

Television stations detailed their use of the watershed as a mechanism for phasing in more adult material as the day progresses. This does not all problems solve, however. The period of 6-9pm can be most problematic as audience expectations of what should be shown often differ greatly.

The role of the BCI and the BCC was also considered. This outlined the process and level of regulation which currently exists regarding matters of taste and decency in Ireland. Data reviewed from the BCC showed that the number of complaints made relating to these matters is increasing and are spreading across both television and radio.

The role and work of IFCO was examined thereafter. It was considered appropriate to do so given the fact that its classifications have a direct input into scheduling decisions made by broadcasters. Information from recent research carried out by IFCO showed that parents often apply a different value system and method of judgement to films watched in the cinema and those appearing on television, more lenient towards the former, more critical of the latter. Furthermore, the areas causing concern in the cinema – for example, the depiction of alcohol and drug taking – are often viewed as being of less concern on television where violence, sex and bad language emerge on top. In many respects, films, as viewed in cinemas, are often seen as less invasive than those on television where the decision to watch is considered more voluntary. Parental supervision was also considered. It was discovered that, similarly to the UK, Irish parents decrease the level of supervision as the child ages. In generally, this onset of leniency begins at 12.

* * * * *

Chapter 14 provided an overview of existing practice as it pertains to both broadcasters and regulators at the time of writing. In so doing, it provided a description of how both sides operate in the absence of a formal code designed to deal with such matters.

Part Five

International experience of regulating issues of 'taste and decency'

Part Five

International experience of regulating issues of ‘taste and decency’

This report has considered many areas. It has traced the legislative basis. It has highlighted factors affecting people’s receipt and assessment of broadcast material and it has highlighted the mechanisms which can help soften the affect of particular programmes. It has provided demographic information on Ireland and outlined the current practice of broadcasters and regulators regarding issues of taste and decency. Certain themes emerge as particularly problematic and *Part Three* identified and considered all of these. *Part Five* moves all such considerations along.

Against the backdrop of information reviewed, the focus now narrows to consider how a sample of international regulators and broadcasters has dealt with issues of taste and decency. A summary of code contents is, therefore, provided and it deals with the following themes:

- Objectives;
- Standards of taste and decency;
- Context;
- Respect and dignity;
- Cultural sensitivities;
- Religious sensibilities;
- Coarse language;
- Violence;
- Drugs and alcohol;
- News, current affairs and documentaries;
- Imitative and anti-social behaviour;
- Lyrics and music videos;
- Radio;
- Trailers;
- The watershed;
- Children’s programming;
- Warnings.

These are all areas found in international codes dealing with taste and decency. It should be noted, however, that individual codes do not necessarily contain all categories outlined above but do contain some. The current report followed this list closely, considering material arising in each section. As Section 19 of the *Broadcasting Act, 2001* does not specify areas to be included and/or excluded, it was necessary to consider all possibilities. This was done to inform discussion, to outline parameters and to facilitate decisions being made on what areas might be contained with in the Irish code.

15. Comparative analysis of sample codes

15.1. Introduction

This section presents an overview of industry codes as they relate to issues of taste and decency. The reasons for doing so can be outlined as follows. Firstly, this approach identifies common ground occurring when codes are compared, showing where emphasis has been placed. Secondly, it provides a summary of the typical contents found in each section. And thirdly, it allows one to determine where gaps exist in present regulations and where future development might occur.^{1 2} Information contained herein is presented without weighting.

15.2. Objectives

An example of objectives specified can be outlined as follows:

‘The Code is intended to:

- regulate the content of commercial television in accordance with current community standards;
- ensure that viewers are assisted in making informed choices about their own and their children’s television viewing;
- provide uniform, speedy and effective procedures for the handling of viewers complaints about matters covered by the Code;
- be subject to periodic public review of its relevance and effectiveness.³

15.3. Standards of taste and decency

- A code is not intended to ban certain types of language or images from bona fide dramatic or literary treatments, nor is it intended to exclude such references from legitimate reportage, debate or documentaries. Where

¹ Information considered herein is a brief summary of the results of a comparative analysis of 18 codes from the Australia, Bosnia-Herzegovina, Canada, Estonia, Hong Kong, New Zealand, the United Kingdom, the Commonwealth Broadcasting Association (CBA) and Ireland. It should be noted that the CBA has 100 members in 50 countries (television and radio stations, both public and independent).

² See Appendix X for a full list of codes from which information presented in this chapter is derived.

³ Australian Broadcasting Authority (n.dat), *Content Regulation – Commercial television code of practice*.

appropriate, audiences will be given advance notice of the content of the programme.

- All programme content must meet contemporary standards of decency, having due regard for the likely characteristics of the audience.
- Programme-makers are responsible for maintaining standards which are consistent with the observance of good taste and decency and which respect the laws of a given society.
- In respecting current societal standards, attention should be given to the time of broadcast and the target audience.
- The degree of restriction should be related to the likely audience of the programme and its expectations.
- The role of regular review is recognised as essential given the shifts that occur in matters of taste and decency.

15.3.1. Defamation

- While free speech is essential in broadcasting, programme makers also need to be very conscious of the possibility of defamatory content in their programmes and the consequences stemming from that.

15.4. Context

- Censorship should be avoided wherever possible.
- The use of coarse language and bad behaviour for no other purpose but to offend is not acceptable.
- Certain contexts allow for inclusion of coarse language and bad behaviour – this is permissible so long as restrictions apply – for example,
 - if the programme is dealing responsibly with important moral or social issues;
 - if there is an identifiable public interest reason (e.g. news, current affairs, documentaries);
 - where their inclusion is essential to the storyline and not gratuitous.
- There is a duty to educate, to deal openly with certain issues.
- Scheduling considerations are also key:
 - Clear advice must be given in trailers, at the start of the programme and at designated intervals (e.g. after a commercial break);
 - That the suitability of the time slot and the target audience must be properly assessed.
- Issues of taste and decency are matters of judgment; what is acceptable in one context may not be so in another context.

15.5. Respect and dignity

15.5.1. General

- To avoid discrimination, programs should not use language or images in a way which is likely to disparage, discriminate or incite violence against any person or section of the community on account of race, ethnicity, nationality, sex, marital or parental status, age, disability or illness, social or occupational status, sexual preference or any religious, cultural or political belief or activity. The requirement is not intended to prevent the broadcast of material which is

factual or the expression of genuinely-held opinion in a news or current affairs program or in the legitimate context of a humorous, satirical or dramatic work.

- Programs should not promote or endorse inaccurate, demeaning or discriminatory stereotypes.
- Care should be exercised to ensure that marginalised groups are not always presented in negative circumstances.
- Care should be taken to foster tolerance and respect for difference and to avoid the lazy adoption of stereotypes covering race, gender, age, religion or sexual orientation.
- Restrictions should be determined by context and should therefore not apply to factual material or where there is a genuine expression of serious comment, analysis or opinion.
- Broadcasters must provide an inclusive image of their country and not exclude marginalised groups.
- Members of marginalised groups should be included in programming rather than outsiders or experts who may act as spokespeople for these groups.

15.5.2. Bad taste in humour

- Humour which offends against good taste and decency should be avoided. There is a danger of offence in the use of humour based on particular characteristics like race, gender, religion or disability.

15.5.3. People with disabilities or mental health problems

- Depictions of people with disabilities should not stereotype or stigmatise them as being different to the community at large.
- People with disabilities should be presented as individuals, not just the sum of their disabilities, nor necessarily representative of all people with disabilities.
- Programmes should avoid anything encouraging prejudice or patronising attitudes towards people with disabilities or mental health problems.
- Programme-makers should consult with those with disabilities and mental health problems as appropriate.
- Programme-makers should encourage the participation of people with disabilities in programming.
- Colloquial abusive terms may cause great offence and care should be taken neither to propagate myths nor to stigmatise.
- In portraying acts of violence, it is important not to associate them uncritically with questions about the mental health of their perpetrators.

15.5.4. Cultural sensitivities

- Programmes should meet generally accepted community standards of civility and respect for the ethnic, cultural and religious diversity of a given country.
- In the depiction of Indigenous peoples, broadcasters should avoid transmitting material that:
 - is likely to incite or perpetuate hatred against;
 - gratuitously vilifies;
 - is likely to incite serious contempt for; or
 - seriously ridiculesa person or groups of people, for the reason that they are members of an Indigenous community.

- Transmitting of material on Indigenous peoples should respect the culture, tradition and protocols of these people.
- Derogatory language and unacceptable terminology must not be used – e.g. half-caste, full-blood, etc.
- Programme-makers should seek appropriate advice on how to best respect Indigenous bereavement customs on the reporting of people recently deceased.
- Programme-makers should be sensitive to language and images which people from non-English speaking or minority racial backgrounds may reasonably find offensive or discriminatory.

15.5.5. Religious sensibilities

- Religious programmes include coverage, explanation, analysis, debate and reports about major religious traditions, Indigenous religious traditions, Indigenous religions, news and innovative spiritual movements as well as secular perspectives on religious issues.
- Programmes should not promote any particular belief system or form of religious expression.
- References to religion should be presented accurately and in a dignified manner.
- The belief and practice of religious groups should not be misrepresented and every effort should be made to ensure that programs about religion are accurate and fair.
- Programmes must not denigrate the religious beliefs of others.
- Programme-makers should be aware that the casual use of names, words or symbols regarded as sacred by believers can cause unnecessary offence.
- Particular offence can be given by linking holy names with strong swear words.
- Any programme which includes a portrayal of religious rites should ensure the accurate presentation of such rites and the correct treatment of religious dignitaries and officers in their various callings.
- Theological debate and disagreement may occur; however, programmes and/or follow-up material must not be used to denigrate or attack the beliefs of other people.
- Programmes that denigrate or satirize any racial or religious group should not be broadcast.
- Programmes featuring the views or beliefs of any race or religion must be acceptable to the target audience and should not be proselytizing in nature.
- In multi-cultural societies, religious programming should reflect a mix of faiths. No one religion should be elevated over another.
- People and countries should not be defined by their religions unless it is strictly relevant.
- Particular religious groups or factions should not be portrayed as speaking for their faith as a whole; e.g. footage of chanting crowds of Islamic activities should not be used to illustrate the whole Muslim world.
- In the Irish context, the term ‘non-Catholic’ should be avoided. Members of the Church of Ireland regard themselves as Catholic and are offended when the term ‘non-Catholic’ is used to describe them. Equally relevant are the many people in Ireland today who do not identify themselves with any Christian religion. The term ‘non-Catholic’ is meaningless in this context.

- Programmes should reflect in a non-judgemental sense the diversity of beliefs that exist in Ireland (including non-belief).

15.6. Coarse language

- Language is never static; words acquire new meanings and interpretations, and levels of offence undergo constant change.
- Obscene or profane language that is likely to offend a substantial proportion of the audience should be prohibited.
- The impact of particular words can differ between generations, as well as between different tones of voice.
- Language acceptable to one group may be deemed offensive by another.
- The repeated use of expletives can cause significantly greater offence than isolated incidents which are justified by the context.
- Use of coarse language may be permissible so long as it is not used gratuitously and provided that its usage can be justified in the context of, for example, news and current affairs reporting, fiction, documentary, dramatisation, comedy and song lyrics – with due consideration given to the target audience and the time of broadcast.
- Where coarse language can be justified, the majority of the audience favours the use of a later transmission rather than editing, particularly for films.
- Language used prior to the watershed should be suitable for a family audience and the use of expletives should be avoided.
- Broadcasters must be alert to, and guard against, the use of coarse language in live programmes.
- Crude expressions with sexual connotations, more explicit adult jokes and other offensive language should only be used infrequently after 11.30 p.m. where they are defensible in terms of context.

15.7. Violence

15.7.1. Scheduling

- The time of transmission is an important consideration in the scheduling of programmes which contain violent themes.

15.7.2. General

- The presentation or portrayal of violence must be justifiable or else the material should not be presented, not gratuitous but justified by context.
- A programme should not sanction, promote or glamorise violence. It should never be glorified or applauded.
- No violence for its own sake or purely for dramatic attraction should be allowed.
- Sustained, relished or excessively detailed acts of violence, unduly bloody or horrific depictions, strong violence that has high impact or which is gratuitous or exploitative or depiction of exploitative or non-consensual sexual relations as desirable will invariably be unsustainable for television.
- In broadcasting a programme containing violence, due consideration should be given to the time slot and target audience.

- Broadcasters should be mindful of the cumulative effects of violent incidents and themes and should avoid any impression that violence is dominating a single programme, a programme series, or a line-up of programmes screened back-to-back.
- Devices and methods of inflicting pain or injury – particularly if capable of easy imitation – should not be shown without careful consideration.
- Themes and scenes dealing with disturbing social and domestic friction, extreme violence, or sequences in which children may be humiliated or badly treated should be appropriately classified.
- All depictions of violence in drama should be relevant and necessary to the development of character or the advancement of theme or plot.
- The degree of violence portrayed or described should be essential to the integrity and completeness of the item.
- Physical and psychological violence, or violent styled language which threatens or encourages the use of violence should not be presented in such a manner as to cause alarm or distress to children within family viewing hours.
- The gratuitous use of violence for the purposes of heightened impact should be avoided.
- Callousness or indifference to suffering experienced by victims of violence should be avoided.
- An excess in the portrayal of violence can de-sensitize viewers.
- When “realistic” violence is involved in dramas it is important that it is not included to “entertain”, but that its sole purpose is ultimately the dramatic desire to deal with real issues in an effective way.
- The consequences of violence must not be glossed over
- Mind/comedy/fantasy violence is permissible.
- Graphic violence requires a warning.

15.7.3. Violence against women

- Violence against women shall not be sanctioned, promoted or glamorised.

15.7.4. Sexual violence/rape

- Particular care must be taken when portraying sexual violence. When a scene involves rape or indecent assault, consideration must always be given, while achieving the dramatic purpose, to minimising the depiction of the details and avoiding any suggestion that such crimes are erotic or endorsed.
- Explicit detail and prolonged focus on sexually violent contact should be avoided.
- Any programme in which rape is depicted should be preceded by a warning.
- Caution should be exercised in any themes, plots or scenes which mix sex and violence, including rape and other sexual assaults.
- The combination of violence and sexuality in a way designed to titillate should not be shown.
- Rape should not be presented as desirable.
- Rape should be portrayed as violence and not as a sexual act.

15.7.5. Violence against children

- Care should be taken that children do not identify with key characters carrying out violent acts or with their victims.

- Due consideration should be given to the time slot and target audience of a particular programme.
- Warnings should be given in advance of transmission.

15.7.6. Violence against specific groups

- Violence against people based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, mental or physical disability, should not be sanctioned, promoted or glamorised.

15.7.7. Violence against animals

- Violence against animals shall not be sanctioned, promoted or glamorised.
- If cruelty to an animal needs to be included in a programme, it should not be dwelt upon.
- Use of animals in violence acts, consistent with plot, should conform with accepted standards of humane treatment.
- Consideration should be given to an appropriate transmission announcement if no harm was caused to the animals.

15.7.8. Violence in sports programming

- Broadcasters should not promote or exploit violent action which is outside the sanctioned activity of the sport in question.
- Care should be taken so that violent incidents occurring during and surrounding play are not repeated gratuitously.
- Sports announcers and commentators should avoid making comments which may appear to sanction, promote and glamorise violence in sport.

15.7.9. Criminal activities

- Depiction of criminals and criminal activities should be consistent with plot and character development.
- The life-style of criminals should not be sanctioned, promoted or glamorised.
- The portrayal of criminal techniques should not make them easy to imitate.

15.8. Sex

15.8.1. Scheduling

- Sensitive scheduling, especially within the hour around the watershed, is particularly important for items involving sexual matters.
- Broadcasters should provide straightforward labelling in clear language and issue sufficient warnings about programmes containing explicit material.

15.8.2. General

- Broadcasters have a duty to act responsibly and reflect the fact that relationships within and between the sexes normally reflect moral choices.
- The portrayal of sex and nudity on television needs to be defensible in context and presented with tact and discretion.
- Context will determine its acceptability.
- Audiences should not be reduced to voyeurs.
- Detailed genital nudity in a sexual context, or explicit depiction of sexual acts, should be deemed unsuitable for mainstream, non-specialist, channels.

- Hard core material or sexual acts with offensive perversion are not permitted.
- Appropriate warnings and on-screen information should be given.
- Editorial judgment must be exercised when there is any association of sex with restraint, pain or humiliation, especially if this is non-consensual.
- Sexual activity between adults and children should not be broadcast.
- Depictions of hard core material, or sexual acts with offensive perversion, are not permitted.

15.8.3. Discussion and phone-in programmes

- Broadcasters must pay due consideration to time slot and target audience.
- Warnings should be issued as appropriate.

15.8.4. Nudity

- The appearance of the nude, human body can be a legitimate element in a programme, provided it does not exploit the nude person and there is a clear editorial rationale.
- For mainstream, non-specialist, television, depictions of sexual behaviour or nudity should be incidental, extremely discreet and absolutely necessary to the storyline or programme context when they are included in programmes seen by children and young people.
- Graphic sex scenes and graphic sexual nudity should be broadcast post watershed and require a warning.

15.8.5. Sexual innuendo

- Programmes containing sexual innuendo should not be broadcast prior to the watershed.

15.9. Drugs and alcohol

- Programmes should not sanction, promote or glamorise illegal drugs, narcotics, tobacco or alcohol.
- Detailed depictions of intravenous drug use should not be permitted.
- Broadcasters may wish to consider publicising help lines when appropriate.
- Drunkenness, addiction to drugs or narcotics and the use of tobacco should not be encouraged or be presented as desirable. Reference to such should only be made where justified by the story line or programme context.
- Broadcasters should ensure that the incidental promotion of liquor is minimised.
- Programmes made specially for children should not feature any alcoholic drinks, tobacco and drugs unless an educational point is being made or unless, in very exceptional cases, the dramatic context makes it absolutely necessary.
- Smoking or the drinking of alcohol by minors should not be presented in a favourable light.
- Solvent abuse should not be portrayed as desirable.

15.10. News, current affairs and documentaries

- News (including news flashes), current affairs and documentaries should never be presented in a manner that will mislead, panic or cause unnecessary distress to viewers/listeners;
- In news and current affairs programmes, violent events should never be sensationalised or presented for their own sake.
- Re-enactments of events will be clearly identified as such and presented in a way which will not mislead audiences.
- Sensitivity will be exercised in broadcasting images of, or interviews with, bereaved relatives and survivors or witnesses of traumatic incidents.
- News updates and promotions should pay due consideration to the time slot and audience – e.g. they should include very little violent material during family viewing times and none at all in the late afternoon and early evening.
- Reporters and editors need to take into account the transmission time of the news broadcast and the genre of programmes which are scheduled around the news.
- Programmes and news items must not portray any person or group of persons in a negative light by placing gratuitous emphasis on age, colour, gender, national or ethnic origin, physical or mental disability, race, religion or sexual preference. Nevertheless, where it is in the public interest, licensees should report events and broadcast comments in which such matters are raised.
- Broadcasters should issue appropriate warnings in advance of scenes which can potentially offend or harm the audience.
- Broadcasters should employ discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence, which could disturb children and their families.
- It is not recommended to emphasise nationality, race, religious or political persuasion and gender, unless it has news value.
- A balance needs to be struck between the demands of truth and the danger of desensitising people.
- Factual programmes should not glamorise criminal activity nor condone the actions of criminals.
- The realistic portrayal of anti-social behaviour, including violent and serious death, particularly if readily capable of easy imitation, should not be shown, except in exceptional circumstances which are in the public interest.
- When real or fictional killings, including executions and assassinations, are shown, the coverage should not be explicit, prolong or be repeated gratuitously.
- Edited extracts of programme material must be a true reflection and not a distortion of the original event or the overall views expressed.
- In news and current affairs or documentaries where sexual activity is the subject matter of a report it should be presented in a non-sensationalist manner. This is particularly the case where deviant activity is the subject of the report.
- Care should be taken in identifying deceased children mentioned in court cases as their identity may lead to other people being identified against the wishes of the Court.

15.10.1. *Reporting suicide*

- Report should be in moderate terms and should exclude any detailed description of the method used.
- Report should be straightforward and must not include graphic details or images or glamorise suicide in any way.
- The news value of a suicide or attempted suicide should be given due consideration.

15.11. **Imitative and anti-social behaviour**

- Programme-makers should avoid any material likely to encourage or facilitate imitative violent behaviour.
- Depictions of suicide should not detail method involved.⁴
- Crime and criminal techniques should not be depicted in a way, that invites imitation, especially if it can be easily imitated by children.
- The use of readily available objects for criminal purposes should be avoided.
- Ingenious devices for, and unfamiliar methods of, inflicting pain, injury or death particularly if readily capable of easy imitation, should not be shown, except in exceptional circumstances which are in the public interest - e.g. rabbit punches, suffocation, sabotage of vehicles, booby traps, etc.
- No programme should be presented in a manner which encourages or offers instructions on gambling.
- Portrayal of dangerous behaviour easily imitated by children should be avoided.
- Appropriate warnings should be given in advance of programmes.

15.12. **Lyrics and music videos**

- Coarse language may be justified in particular contexts – e.g. song lyrics.
- Broadcasters showing music videos should observe the appropriate scheduling considerations, audience composition and limits applied to other broadcasts.

15.13. **Radio**

Standards applicable to general programming directly affect radio programming. There are some points, however, which are particular to radio broadcasts and these are outlined as follows.

15.13.1. *Sex*

- Audio of actual sexual acts should not be broadcast.
- In the absence of a formal watershed, it is recommended that programmes with sexual content or discussion of sex should not be broadcast prior to 9.30 pm when children may be listening.

15.13.2. *News*

- Due consideration must be given to the time of the broadcast and the audio carried therein.

⁴ See also section on 'Reporting suicide' in Chapter 10: *News, current affairs and documentaries*.

- News coverage must not mislead, panic or cause unnecessary distress in its audience, especially when children may be listening.

15.13.3. *Violence against children*

- Where a programme refers to/deals with violence against children, it should be accompanied by a clear warning of the programme's content, while sensitive scheduling and labelling are also called for on radio.

15.14. Trailers

- Trailers should be appropriate for the time broadcast.
- Trailers for adult material should be broadcast after the watershed and should not be transmitted when children are watching.
- The broadcasting of trailers should have regard to the likely audience of such programmes and the time when broadcast.

15.15. The watershed

- The basic principle of the watershed is that material which is unsuitable for children cannot be broadcast before this time as large numbers of children are likely to be viewing.
- The watershed shall apply between agreed upon hours – e.g. 9.30 p.m. to 5.30 a.m.
- Broadcasters need to be aware of, and sensitive to, the fact that children may continue to watch after the watershed.
- Other vulnerable people, apart from children, may be watching unaccompanied after 9pm. Consequently, it is very important that accurate and tonally suitable warnings are given by Presentation before a broadcast.
- It must also be recognised that some programming continues through the watershed; e.g. premiership football matches.
- There should not be an abrupt change from family viewing to adult programming when the watershed starts (especially during school holidays and at weekends) but a gradual progression.
- Violence is not the only reason for a programme to be considered unsuitable for family viewing or transmission before the watershed. Other factors include bad language, innuendo, sex and nudity, scenes of extreme distress, the deliberate use of horror for its own sake, morbid sound effects intended to anticipate or simulate death or injury, the use of the supernatural or superstition so as to arouse anxiety or fear, torture, cruelty to children or animals, any matter likely to lead to hysteria, nightmares or other undesirable emotional disturbances in children and the use of crude slang.
- The watershed rarely, if ever, applies to radio.
- Parents are responsible not only for their children's viewing but also for how their children interpret their chosen programmes.
- Particular care is to be taken on day time viewing, Saturday tea time and if the station is scheduling family movies (Christmas, Easter, etc.)

15.16. Children's programming

Standards applicable to general programming directly affect children's programming. Additional emphasis is placed, however, on key areas particular to children's programming and are deemed necessary for the perceived welfare and protection of young viewers.

15.16.1. Scheduling

- While the real world should not be concealed from children, special care will be taken to ensure programmes children are likely to watch unsupervised will not cause alarm or distress.
- Parents should have appropriate information so as to make an informed choice about a programme's suitability for their child/children.
- Programmes broadcast during children's normally accepted viewing times should be acceptable for them.

15.16.2. Violence

- Very little violence, either physical, verbal or emotional should be portrayed in children's programming.
- Programming should deal carefully with themes that could threaten a child's sense of security – e.g. domestic conflict, the death of parents or close relatives, or the death or injury of the pets, street crime or the use of violence.
- Programming should not depict anti-social behaviour or behaviour that can be easily imitated. This applies especially to the use, in a manner likely to cause serious injury, of knives and other offensive weapons, articles or substances which are readily accessible to children.
- Programmes should avoid scenes where children are humiliated or badly treated.
- Programming for children should not contain realistic scenes of violence which create the impression that violence is the best way to resolve conflict.
- The portrayal in children's programmes of anti-social behaviour by children, e.g. malicious or bullying behaviour towards other children or serious disregard for parental authority is to be treated with great care and sensitivity.

15.16.3. Cartoons

- Children's animation should not have violence as its central theme and should not invite dangerous imitation.

15.16.4. Special effects

- Programming for children should not contain frightening or otherwise use excessive special effects not required by the storyline.

15.16.5. Incest and child abuse

- Incest and child abuse may be legitimate themes for programmes but due consideration should be given to the time slot and target audience.
- Programmes carrying such material should carry clear warnings at appropriate junctures.
- The sexual relationship between an adult and child or between under-age young people should not suggest that such behaviour is legal or acceptable or is to be encouraged.

- Explicit portrayal of sexual acts between adults and children, and between under-age young people, should not be transmitted.

15.16.6. *Language*

- Bad language should not be used in programmes targeting children.

15.16.7. *Themes*

- Care should be taken in the treatment of themes dealing with gambling, prostitution, crime or social or domestic conflict.

15.17. **Warnings**

- Where appropriate, the audience will be given advance notice of programs or program segments which some viewers or listeners could find distressing and/or disturbing.
- Consumer advice should provide viewers with information about the principal elements that contribute to a program's classification, and indicates their intensity and/or frequency. This is intended to help people to make informed choices about the programs they choose.
- Consumer advice should be broadcast at the start of programmes and at the end of a commercial break. It should be spoken and/or written.
- Consumer advice should be given before news, current affairs and documentaries where content may cause offence or distress. It should be spoken and/or written. Broadcasters should provide an adequate indication of the nature of the material, while avoiding detail which may itself offend or distress people.
- Broadcasters should give sufficient information about the nature and content of programmes to allow parents to make an informed judgement on a programme's suitability for their children to hear or see.
- It is acknowledged that broadcasters have conflicting objectives of attracting audiences while simultaneously warning viewers or listeners that they may find a programme offensive. Providing as much clear information as possible in advance about the nature of programmes can often fulfil both of these objectives.
- Programmes with the potential to offend and/or harm, should carry a classification system to inform the viewer of its content.

15.18. **Concluding remarks**

Information reviewed herein provides an overview of the material found in codes operating in other jurisdictions. In carrying out this comparative analysis, it was found that much common ground exists vis-à-vis the approaches taken and the material included. In addition, the overall approach taken was often threefold incorporating rules, a watershed and pre-broadcast warnings/use of classification systems.

This overview is informative as it shows the approaches taken elsewhere. It also provides a basis on which to build a framework which can be modified, moulded and adapted to reflect Irish attitudes and needs.

Concluding remarks

Concluding remarks

Introduction

Section 19 of the *Broadcasting Act, 2001* directs the Broadcasting Commission of Ireland (BCI) to draw up a code to deal with issues of taste and decency in broadcasting. While stating that particular attention should be paid to violence and sexual conduct, it was not explicit regarding what other areas might fall within this realm. Neither did it identify succinctly who such a code should be designed to protect. This report responded to this. Drawing on the experience of other jurisdictions, it outlined areas that could be dealt with in such a code, establishing that matters of taste and decency affect all consumers of broadcast media and no one group specifically.

This concluding chapter considers information reviewed. It outlines the position of such a code vis-à-vis freedom of expression. And it concludes by identifying four principal themes which were in evidence throughout this study.

Information reviewed

Identifying the parameters of the field that is taste and decency brought the reader through a number of separate, albeit interrelated, themes. The report began with an overview of existing legislation. It was seen that a significant, and somewhat substantial, basis is already in place. Influences emanated from both national and international decision makers. The task will be to draw these together, developing a code which reflects the Irish nation and its particular needs.

Addressing definitions of ‘taste’ and ‘decency’, the report showed that any code produced must be culturally specific, shaped by the customs, beliefs and value systems of a given society if it is to be truly relevant and thus, effective. Legislation, definitions and demographics, however, do not explain why individuals find material offensive. Factors influencing individual perceptions were, therefore, considered in *Part Two*. The reader was presented with key influences shaping attitudes: context, channel viewed, origin of programming, gender and age. Other factors influencing viewer choice were reviewed in this section. Throughout the analysis of codes from other jurisdictions, it was discovered that a code alone could not deal with all issues arising. Instead countries often used three approaches – a code in conjunction with a designated watershed and classification systems. Consequently, the next two chapters

considered these other methods. It was acknowledged that where parents have primary responsibility for what their children watch, they should be assisted by broadcasters and programme makers. Furthermore, this can be supported by the use of appropriate scheduling, pre-transmission warnings, classification systems and perhaps other methods of control such as parental lock mechanisms.

In *Part Three*, the approach narrowed, where particularly sensitive areas of broadcasting were identified and reviewed. The approach taken was to outline an area and to show how it is believed to offend. Notions of respect and dignity were considered as these permeate any discussion on taste and decency. Such themes as disability, cultural and religious sensitivities were considered at this point. The three principal areas – coarse language, violence and sex – were considered together with more secondary, albeit important, themes reviewed thereafter.

While material reviewed referred to all viewers and/or listeners, additional attention was paid to children. The principal reason for doing so was due to the fact that children tend to perceive, and to be affected, differently to adults. The interrelationship of children and parents vis-à-vis television viewing was also considered at this point. Overall, it was seen that similarly to adults, children do not react in a uniform fashion and similarly to adults, they are often very discerning in their tastes.

The bulk of material used was gleaned from international experience. The focus now turned towards home. Acknowledging the need for culturally specific material, *Part Four* provided a snapshot of pertinent demographic information. Here the reader was introduced to factors which can shape how Irish people receive and interpret broadcast material. The experience of Irish broadcasters, both national and local, radio and television, was considered thereafter in terms of how issues of taste and decency are dealt with and, where possible, contained. The roles of the Broadcasting Commission of Ireland (BCI), the Broadcasting Complaints Commission (BCC) and the Irish Film Censor's Office (IFCO) were outlined and reviewed accordingly.

Part Five presented an overview of the comparative analysis carried out on a sample of international codes. Key headings and typical contents were provided for consideration. Such an approach was deemed necessary in a bid to inform discussion regarding the possible parameters of the Irish code and the material which might be contained therein

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Viewed collectively, one sees that this report traced through a number of themes and presented various aspects of the topic that is 'taste and decency'. When one looks at the level of regulation omnipresent in the approach taken by some other countries, however, arguments regarding freedom of speech and expression can arise. The following section looks briefly at this.

Impinging on freedom of speech and expression?

Regulating issues of taste and decency has often met with accusations of impingement on the right to freedom of speech. According to the European Platform of Regulatory

Authorities (EPRA), ‘the difficulty is to keep a balance between the right to information, as stated in Article 10 of the European Convention of Human Rights and the protection of the audience against harmful programme content.’¹ The BBC believes this to be a balancing act: ‘The right to challenge audience expectations in creative and surprising ways must be safeguarded but audiences should not be needlessly offended by what we broadcast and publish.’²

Regulators and broadcasters walk a tightrope between adhering to safeguards while allowing creativity to flourish. In such a context, Dunja Mijatovic maintains that ‘Whatever the weight given to freedom of expression, the protection of human dignity has always been a fundamental concern of media regulation.’³ This has been echoed by the former Independent Television Commission (ITC) in the United Kingdom (UK) when it said: ‘Broadcasters accordingly have a responsibility to the public to ensure that a proper balance is struck between freedom of expression and protection of the vulnerable.’⁴ More recently, Ofcom has stated that ‘...the right to freedom of expression in Article 10 of the [European] Convention [on Human Rights] encompasses the audience’s right to receive creative material, information and ideas without interference but subject to restrictions required by law and necessary in a democratic society.’⁵ ⁶ IFCO also recognised this, identifying its role as balancing the protection of young people with allowing freedom of expression which is in keeping with the values of Irish society today. A balance needs to be maintained between entertainment and responsibility where reducing occasions for offence does not constitute restricting freedom of speech and/or expression. The common good should be preserved.

Concluding remarks

A concise study of taste and decency has now been presented. Legislation, definition, demographics and experience have all been considered in a bid to inform the development of the Irish code and discussions surrounding its content.

Viewing material collectively, this report highlighted four main points. Principally, it showed that offence is rarely experienced in a uniform manner. Different personal characteristics and different cultural settings will affect how people receive certain material. Secondly, the importance of ‘context’ was a recurring theme. Potentially offensive material can be accepted if appropriate to a given situation. As a result, ‘context’ was one of the main tools of measurement used by broadcaster, regulator and consumer. In this way, it is necessary to assess if such material was well judged, not gratuitous, unnecessarily cruel or designed to harm or humiliate a person or group. More specifically, care should be taken to ensure it was suitable to action taking place and/or debate unfolding. Appropriate scheduling can also reduce the potential to offend. Thirdly, it was shown that attitudes are often transient, shaped and reshaped by various shifting influences. This emphasises the need to revisit areas specified at

¹ EPRA (1998), *Violence on Television*, 7th EPRA meeting, Fredrikstad, Norway: 14-15 May, p.1.

² BBC (n.dat), *Producer’s Guidelines – Contents and Introduction*, p.4.

³ Mijatovic, Dunja (2000), ‘The Issue of Human Dignity: Other aspects of human dignity’, 12th EPRA meeting, Bratislava, 26-27 October, 7.

⁴ Independent Television Commission (n.dat), *Code on Standards*, 47.

⁵ Ofcom (2004), Summary: *Consultation on the proposed Ofcom Broadcasting Code*, 8.

⁶ See Appendix XI for Article 10 of the *European Convention on Human Rights*.

suitable junctures and to review material currently contained therein. And finally, it was highlighted that to sanitise broadcasting, to remove all offensive and potentially offensive material does not the consumer's needs serve. It does not provide quality programming or a well-balanced approach. When handled reasonably, where due care and attention to detail is maintained, contentious material can be handled in such a way as to inform, entertain and educate rather than to offend, incite harm or insult.

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Drawing on international experience, one learns that a code for taste and decency does not censor, sanitise or deconstruct. Instead it can promote responsible broadcasting where entertainment and education is enhanced and offence and harm can be kept to a minimum.

Appendices

Appendix I

Related legislation and legal documents

Broadcasting Act, 1990
Broadcasting Act, 2001
Broadcasting Authority Act, 1960
Broadcasting Authority (Amendment) Act, 1966
Broadcasting Authority (Amendment) Act, 1976
Broadcasting and Wireless Telegraphy Act, 1988
Bunreacht na hEireann (Articles 40-44)
Censorship of Publications Act, 1929, 1946
Child Trafficking and Pornography Act, 1998
Child Trafficking and Pornography (Amendment) Act, 2004
Children's Act, 2001
Defamation Act, 1961
Equal Status Act, 2000
Equality Act, 1998
European Communities (Television and Broadcasting) Regulations, 1999 (S.I. No. 313 of 1999) and European Communities (Television Broadcasting) Regulations, 1999
European Convention on Human Rights.
Obscene Publications, Act 1857, 1959
Prohibition of Incitement to Hatred Act, 1989
Protection of Children (Hague Convention) Act, 2000
Radio and Television Act, 1988
Television Without Frontiers, 1989 and 1997 (EU Directives 89/552/EEC and 97/36/EC)
Wireless Telegraphy Act, 1926

Appendix II

Extract from the *Defamation Act, 1961*:

- 13.**-(1) Every person who composes, prints or publishes any blasphemous or obscene libel shall, on conviction thereof on indictment, be liable to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or to both fine and imprisonment or to penal servitude for a term not exceeding seven years.
- (a) In every case in which a person is convicted composing, printing or publishing a blasphemous libel, the court may make an order for the seizure and carrying away and detaining in safe custody, in such manner as shall be directed in the order, of all copies of the, libel in the possession of such person or of any other person named in the order for his use, evidence upon oath having been previously given to the satisfaction of the court that copies of the said libel are in the possession of such other person for the use of the person convicted.
- (b) Upon the making of an order under paragraph (a) of this subsection, any member of the Garda Síochána acting under such order may enter, if necessary by the use of force, and search for any copies of the said libel any building, house or other place belonging to the person convicted or to such other person named in the order and may seize and carry away and detain in the manner directed in such order all copies of the libel found therein.

- (c) If, in any such case, the conviction is quashed on appeal, any copies of the libel seized under an order under paragraph (a) of this sub section shall be returned free of charge to the person or persons from whom they were seized.
- (d) Where, in any such case, an appeal is not lodged or the conviction is confirmed on appeal, any copies of the libel seized under an order under paragraph (a) of this subsection shall, on the application of a member of the Garda Síochána to the court which made such order, be disposed of in such manner as such court may direct.

14.-(1) In this Part-

“broadcast” has the same meaning as in the Wireless Telegraphy Act, 1926 (in this section referred to as the Act of 1926) and “broadcasting” shall be construed accordingly;

“broadcasting station” has the same meaning as in the Act of 1926, as amended by the Broadcasting Authority Act, 1960;

“wireless” telegraphy has the same meaning as in the Act of 1926.

(2) Any reference to this Part to words shall be construed as including a reference to visual images, gestures and other methods of signifying meaning.

(3) Where words broadcast by means of wireless telegraphy are simultaneously transmitted by telegraph as defined by the Telegraph Act, 1863, in accordance, with a licence granted by the Minister for Posts and Telegraphs, the provisions of this Part shall apply as if the transmission were broadcasting by means of wireless telegraphy.

15.- For the purposes of the law of libel and slander the broadcasting of words by means of wireless telegraphy shall be treated as publication in permanent form.

Appendix III

Extract from the *Prohibition of Incitement to Hatred Act, 1989* (Section 3)

- 3.-(1) If an item involving threatening, abusive or insulting visual images or sounds is broadcast, each of the persons mentioned in *subsection (2)* is guilty of an offence if he intends thereby to stir up hatred or, having regard to all the circumstances, hatred is likely to be stirred up thereby.
- (2) The persons referred to in *subsection (1)* are:
 - (a) the person providing the broadcasting service concerned,
 - (b) any person by whom the item concerned is produced or directed, and
 - (c) any person whose words or behaviour in the item concerned are threatening, abusive or insulting.
- (3) In proceedings against a person referred to in *paragraph (a) or (b) of subsection (2)* for an offence under this section, if the person is not shown to have intended to stir up hatred, it is a defence for him to prove-
 - (a) that he did not know and had no reason to suspect that the item concerned would involve the material to which the offence relates, or
 - (b) in a case other than one to which *paragraph (a)* relates, that, having regard to the circumstances in which the item was broadcast, it was not reasonably practicable for him to secure the removal of the material aforesaid.
- (4) In proceedings against a person referred to in *subsection (2) (b)* for an offence under this section, it is a defence for the person to prove that he did not know and had no reason to suspect-

- (a) that the item would be broadcast, or
 - (b) that the circumstances in which the item would be broadcast would be such that hatred would be likely to be stirred up.
- (5) In proceedings against a person referred to *subsection (2) (c)* for an offence under this section, it is a defence for the person to prove that he did not know and had no reason to suspect-
- (a) that an item involving the use of the material to which the offence relates would be broadcast, or
 - (b) that the circumstances in which such an item would be broadcast would be such that hatred would be likely to be stirred up.
- (6) In proceedings for an offence under this section, it is a defence for the person charged to prove that he did not know, and had no reason to suspect, that the material to which the offence relates was threatening, abusive or insulting.
- (7) In any proceedings for an offence under this section alleged to have been committed in respect of an item-
- (a) a script on which the item was based shall be evidence of what was included in the item and of the manner in which the item or any part of it was performed, and
 - (b) if such a script is given in evidence on behalf of any party to the proceedings, then, except in so far as the contrary is shown, whether by evidence given on behalf of the same or any other party, the item shall be taken to have been performed in accordance with that script.
- (8) (a) If a member of the Garda Síochána not below the rank of superintendent has reasonable grounds for suspecting-
- (i) that an offence under this section has been committed by a person in respect of an item included in a broadcast, or
 - (ii) that an item is to be included and that an offence under this section is likely to be committed by a person in respect of the item,
- he may make an order in writing under this section authorising any member of the Garda Síochána-

(I) at any time or times within one month from the date of the making of the order, on production if so requested of a copy of the order, to require any person named in the order to produce, if such a thing exists-

(A) a script on which the item aforesaid was or, as the case may be, will be based, or

(B) a recording of any matter which was or, as the case may be, will be included in the item, and

(II) if the script or recording is produced to him, to require the person to afford him an opportunity of causing a copy thereof to be made.

(b) An order under this subsection shall be signed by the person by whom it is made, shall name the person to whom it is directed and shall describe the item to which it relates in a manner sufficient to enable the item to be identified.

(c) Any person who without reasonable excuse fails or refuses to comply with a requirement made pursuant to an order under *paragraph (a)* shall be guilty of an offence.

(d) Where, in this case of an item based on a script, a copy of a script on which the item was based has been made by or on behalf of a member of the Garda Síochána by virtue of an order under this subsection relating to the item, *subsection (7)* shall apply in relation to that copy as it applies in relation to a script on which the item was based; and a document purporting to be copy of the script and to be signed by the member shall be deemed, for the purposes of this section, to be such a copy and to be so signed unless the contrary is shown.

(e) Nothing done under this subsection or in pursuance of an order under this subsection or the use of a script or recording such as aforesaid or a copy thereof exclusively for the purposes of the enforcement of this section shall constitute-

(i) an infringement of the copyright of any work, sound recording, cinematograph film or television or sound broadcast, or

(iii) [sic] an offence under any of the provisions of the Performers' Protection Act, 1968.

- (9) In this section “script”, in relation to an item, means the text of the item (whether expressed in words or in musical or other notation) together with any directions for its performance, whether contained in a single document or not.

Appendix IV

Extract from the *Equal Status Act, 2000*:

- 3.-(1) For the purposes of this Act, discrimination shall be taken to occur where-
- (a) on any of the grounds specified in *subsection (2)* (in this Act referred to as “the discriminatory grounds”) which exists at present or previously existed but no longer exists or may exist in the future, or which is imputed to the person concerned, a person is treated less favourably than another person is, has been or would be treated,

 - (b) (i) a person who is associated with another person is treated, by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated, and
(ii) similar treatment of that person on any of the discriminatory grounds would, by virtue of *paragraph (a)*, constitute discrimination,

 - or

 - (c) (i) a person is in a category of persons who share a common characteristic by reason of which discrimination may, by virtue of *paragraph (a)*, occur in respect of those persons,
(ii) the person is obliged by the provider of a service (within the meaning of *section 4 (6)*) to comply with a condition (whether in the nature of a requirement, practice or otherwise) but is unable to do so,
(iii) substantially more people outside the category than within it are able to comply with condition, and
(iv) the obligation to comply with the condition cannot be justified as being reasonable in all the circumstances of the case.
- (2) As between any two persons, the discriminatory grounds (and the descriptions of those grounds for the purposes of this Act) are:

- (j) that one is male and the other is female (the “gender ground”),
- (k) that they are of different marital status (the “marital status ground”)
- (l) that one has family status and the other does not or that one has a different family status from the other (the “family status ground”),
- (m) that they are of different sexual orientation (the “sexual orientation ground”),
- (n) that one has a different religious belief from the other, or that one has a religious belief and the other has not (the “religion ground”),
- (o) subject to *subsection (3)*, that they are of different ages (the “age ground”),
- (p) that one is a person with a disability and the other either is not or is a person with a different disability (the “disability ground”),
- (q) that they are of different race, colour, nationality or ethnic or national origins (the “ground of race”),
- (r) that one is a member of the Traveller community and the other is not (the “Traveller community ground”),
- (s) that one-
 - (i) has in good faith applied for any determination or redress provided for in *Part II* or *III*,
 - (ii) has attended as a witness before the Authority, the Director or a court in connection with any inquiry or proceedings under this Act,
 - (iii) has given evidence in any criminal proceedings under this Act,
 - (iv) has opposed by lawful means an act which is unlawful under this Act, or
 - (v) has given notice of an intention to take any of the actions specified in *subparagraphs (i) to (v)*, and the other has not (the “victimisation ground”).

(3) Treating a person who has not attained the age of 18 years less favourably or more favourably than another, whatever that other person’s age, shall not be regarded as discrimination on the age ground.

(4) The Minister shall, not later than two years after the commencement of this section, review the operation of this Act to assess whether there is a need to add to the discriminatory grounds specified in *subsection (2)*.

Appendix V

Extracts from *Television Without Frontiers* directive (89/552/EEC) as amended by (97/36/EC)

Article 22:

1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.
2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.
3. Furthermore, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration.

Article 22a

Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

Appendix VI

Canadian Radio-television and Telecommunications Commission (1997), *Classification System for Violence in Television Programming*, Public Notice CRTC 1997-80, 18 June, p.10.

CTR-E (Exempt)	'Exempt programming includes: news, sports, documentaries and other information programming; talk shows, music videos and variety programming.'
CTR-C (Children)	'Programming intended for children with this designation must adhere to the provisions of the Children's Section of the Canadian Association of Broadcasters (CAB) Voluntary Code on Violence in Television Programming.' Programming for children under 8 years Programming 'will pay careful attention to themes which could threaten their sense of security and well-being. As programming for children requires particular caution in the depiction of violence, there will be no realistic scenes of violence. Depictions of aggressive behaviour will be infrequent and limited to portrayals that are clearly imaginary and unrealistic in nature.'
CTR-8+ (Children over 8 years)	'This classification is applied to children's programming that is generally considered acceptable for youngsters 8 years and over to view on their own. It is suggested that a parent/guardian co-view programming assigned this classification with younger children under the age of 8.' 'Violence guidelines: -any realistic depictions will be infrequent, indiscreet, of low intensity, and shall portray the consequences of violence. -violence portrayed must be within the context of the storyline or character development. -might include mild physical violence, comedic violence, comic horror, special effects, fantasy, supernatural or animated violence.'

CTR-FAM (Family)	<p>‘Considered acceptable for all age groups. Appropriate viewing for the entire family...this classification shall contain very little violence, either physical, verbal or emotional.’</p> <p>‘It will be sensitive to themes which could threaten a younger child’s sense of security, and will depict no realistic scenes of violence which minimize or gloss over the effects of violent acts.’</p> <p>‘Violence guidelines: -minimal, infrequent. -may contain comedic, unrealistic depictions. -contains no frightening special effects not required by storyline.’</p>
CTR-PA (Parental Advisory)	<p>‘This programming, while intended for a general audience, may not be suitable for younger children (under the age of 8). Parents/guardians should be aware that there might be content elements which some could consider inappropriate for unsupervised viewing by children in the 8-13 age range.’</p> <p>‘Programming within this classification might address controversial themes or issues. Cognizant that pre-teens and early teens could be part of this viewing group, particular care must be taken not to encourage imitational behaviour, and consequences of violent action shall not be minimized.’</p> <p>‘Violence guidelines: -any depiction of conflict and/or aggression will be limited and moderate; it might include physical, fantasy, or supernatural violence. -any such depictions should not be pervasive, and must be justified within the context of theme, storyline or character development.’</p>
CTR-14+ (Over 14 years)	<p>‘Programming with this classification contains themes or content elements which might not be suitable for viewers under the age of 14. Parents are strongly cautioned to exercise discretion in permitting viewing by pre-teens and early teens without parent/guardian supervision, as programming with this classification could deal with mature themes and programming with this classification could deal with mature themes and societal issues in a realistic fashion.’</p> <p>‘Violence guidelines: -while violence could be one of the dominant elements of the storyline, it must be integral to the development of plot or character. -might contain intense scenes of violence.’</p>
CTR-18+ (Adults)	<p>‘Intended for adults 18 years and older.’</p> <p>‘This classification applies to programming which could contain content elements that would make it unsuitable for viewers under the age of 18.’</p> <p>‘Violence guidelines: -contains depictions of violence which, while integral to the development of plot, character or themes, are intended for adult viewing, and thus are not suitable for audiences under 18 years of age.’</p>

Appendix VII

Sample of control mechanisms¹

Television

Digital interactive services blocking mechanism

- Parents can clock out specified sites using a code.

Channel guides

-Channel guides include

- Listings magazines
- Teletext listings

-Guides can be used by parents to check for child suitability

-Information in guides can include:

- Film certifications
- Programme ratings

Electronic Programme Guides (EPG)

-EPGs appear on screen

-EPGs enable viewer to seek out and organise information about desired programming

-EPGs can include mechanisms for rating-based blocking of individual programmes and/or entire channels

-EPGs can be personalised for different members of the family via PINs.

NextView

-Structured programme information matching choice and needs of viewer

-Often includes information on age suitability

-Gives information about specific programmes and schedules

-Offers means of recording programmes in advance

-Allows search for particular programmes by title or theme

¹ Hanley, P. (2002), *Striking a balance: the control of children's media consumption*, September, 67-9.

Parental lock mechanisms – digital television

-PINs prevent access to channels

-Allow parents to block out:

- Specific channels, e.g. adult channels
- Film of a particular rating
- Viewing at a particular time of day

-Pay per view (PPV) – subscriber record for PIN settings checked against event classification.

Password – digital interactive services

-Requirement to enter account number and password before accessing services.

Smart card – cable/satellite

-Can remove smart card to bar/lock specific channels

Teletext guidance

-Such as pages 611 (BBC) and 116 (ITV)

-Give general and specific guidance

-Link with on-air announcements

Self-regulation

-Parents sit with children when using television

-Television in room where viewing may be monitored easily

-Active prevention of access to certain programmes

-Discussing programmes with children

-Rules for television sets in bedrooms, e.g.:

- Unplugging aerial
- Not before school
- Not on school nights
- No multi-channel access
- Only videos

-Barring access to television in general at certain times, e.g.:

- Before school
- School nights.

V-chips

-V-chips are electronic filtering technology inserted into television sets and protected by PIN-based security system

-Television programmes are rated by broadcasters against national standards

-Appropriate rating code is inserted electronically into programme

-Parents can 'set' ratings levels on their V-chip to:

- Select programmes believed to be appropriate for children
- Block out programmes believed to be inappropriate for children

-Once rating level is selected:

- All programmes at that level and below are allowed to pass through the V-chip and can be viewed
- Any programmes with a rating above that level will be blocked and the screen will go blank

- Rating levels can be changed:
 - Temporarily to allow adult viewing
 - Progressively, as children mature

Walled garden – digital interactive services

- Enclosed environment controlling user's access to web content and interactive services
- Those operating within walled garden have been vetted by digital operators ensuring suitability for television environment

Watershed

-Progressive approach

-Until 9.00 p.m. nothing should be shown that is unsuitable for children

- The earlier in the evening the programme is shown, the greater the care required by the broadcaster

-From 9.00 p.m. to 5.30 a.m., material more suitable for an adult audience may be shown

- There should be a gradual transition and care should be taken in the period immediately following the 9.00 p.m. Watershed

-British Board of Film Classification video classifications should guide film scheduling:

- '12' – normally not before 8.00 p.m.
- '15' – normally not before 9.00 p.m. (8.00 p.m. on premium rate subscription services)
- '18' – not before 10.00 p.m. (unless made more than 10 years ago and now suitable for earlier transmission)
- 'R18' – not at any time
- refused classification – not at any time

-Exceptions:

- Premium subscription channels – Watershed set at 8.00 p.m. (material of a more adult kind may be included between 10.00 p.m. and 5.30 a.m.)
- Pay per view services with security mechanisms – Watershed waived. Caution must be exercised – no 'adult' sex material 10.00 p.m. or after 5.30 a.m.

Appendix VIII

Federation of Australian Commercial Television Stations' (FACTS) *Guide to Appropriate Language*.²

Words to watch	Generally Acceptable alternatives (though check with person to be interviewed/profiled)
Afflicted with (most people with disabilities don't see themselves as afflicted)	"has" (the disability)
Birth defect, congenital defect, deformity	"has had a disability since birth", "has a congenital disability."
Blind (The), visually impaired (The)	"the blind community"; otherwise, "is blind", or "has impaired vision" (for a person with some degree of useful vision)
Confined to a wheelchair; wheelchair-bound (a wheelchair provides mobility not restriction)	"uses a wheelchair"
Cripple, crippled (these terms convey a negative image of a twisted ugly body)	"has a physical disability", whose physical disabilities restrict (his/her) mobility"
Deaf (The)	Appropriate when referring to the deaf community, or (capitalised) to people who identify as members of the signing Deaf community. Otherwise, someone "who is deaf/hearing impaired/hard of hearing" (depending on the degree of hearing loss)
Deaf and dumb	"profoundly deaf and uses sign language"
Defective, deformed (degrading terms, avoid)	Specify the disability
Disabled (The)	"people with a disability"; the "disabled sector"; the "disabled community"

² FACTS (1999), *Commercial Television Industry Code of Practice*, 44-45.

Dwarf	“short”, “less than...cm”, “below average height”
Epileptic	“has epilepsy”
Fit (attack/spell)	“seizure”
Handicapped	“is handicapped by his/her disability” is appropriate when referring to an environmental or attitudinal barrier, otherwise, “has a (physical/intellectual) disability.”
Insane (also lunatic, mental patient, mentally diseased, neurotic, psychotic, schizophrenic, unsound mind, mad, demented, etc)	“has a psychiatric disability”, “a psychiatric patient” (in the case of people in hospital, or of a doctor/patient relationship), or else specify the condition
Invalid	“has” (a disability), or specify the name of the medical condition if the person has one
Mentally retarded, mentally defective	“intellectually disabled”, “has an intellectual disability”
Mongol	“has Down Syndrome”
Physically/intellectually challenged	“has” (a physical/intellectual disability)
Spastic: usually refers to a person with cerebral palsy or someone who has uncontrollable spasms	“has cerebral palsy”
Suffers from, sufferer, stricken with:	“has” (the disability)
Vegetative	“in a coma”, “comatose” or “unconscious”
Victim	“has” (the disability)

Appendix IX

National Disability Authority, Ireland (2004), *Appropriate Terms to Use*.³

Term no longer in use	Term now used
The disabled	People with disabilities or disabled people
Wheelchair-bound	Persons who use a wheelchair
Confined to a wheelchair	Wheelchair user
Cripple, spastic, victim	Disabled person, person with disability
Mental handicap	Learning disabled
Normal	Non-disabled or able-bodied
Schizo, mad	Person with a mental health disability
Suffers from (e.g. asthma)	Has (e.g. asthma)

³ NDA(2004), *Appropriate Terms to Use*, 1 March, www.nda.ie/entmgmt.nsf/Category/2294F7824465D7C580256C7B005A4986.

Appendix X

Codes used for comparative analysis⁴

Australia

Australian Broadcasting Authority (n.dat), *Content Regulation – Commercial television code of practice*.

The Federation of Australian Radio Broadcasters Limited (2001), *Code of Practice & Guidelines*, December.

Australian Broadcasting Authority (n.dat), *Content Regulation – Community broadcasting radio codes of practice*.

Australian Broadcasting Corporation (2003), *ABC Code of Practice*.

Federation of Australian Commercial Television Stations (1999), *Commercial Television Industry Code of Practice*, April.

Bosnia-Herzegovina

Independent Media Commission, Bosnia-Herzegovina (n.dat), *IMC Broadcasting Code of Practice*.

Canada

Canadian Association of Broadcasters (n.dat.), *Voluntary Code Regarding Violence in Television Programming*.

Commonwealth

Commonwealth Broadcasting Association (n.dat), *CBA Editorial Guidelines (draft)*.⁵

Estonia

Estonian Press Council (n.dat.), *The Code of the Estonian Press Council*.⁶

⁴ In general, codes were chosen due to their availability in the English language.

⁵ The CBA has 100 members in 50 countries. Membership is open only to organisations and includes radio and television stations, both private and independent.

⁶ This code also applies to television and radio.

Hong Kong

Broadcasting Authority, Hong Kong (2001), *Radio Code of Practice on Programme Standards*, 1 June.

Broadcasting Authority, Hong Kong (2003), *Generic Code of Practice on Television Programming Standards*, 27 June.

Ireland

RTÉ (2002), *RTÉ Programme-Makers' Guidelines*.^{7 8}
TV3's internal guidelines (not for citation or circulation).

New Zealand

Broadcasting Standards Authority, New Zealand (n.dat), *Free-to-Air television code of broadcasting practice*.

Broadcasting Standards Authority, New Zealand (n.dat), *Radio Code*.

Broadcasting Standards Authority, New Zealand (n.dat), *Pay TV Code*.

United Kingdom

Broadcasting Standards Commission (n.dat), *Code on Standards*.

Radio Authority (2002), *News and Current Affairs and Programme Code*.

⁷ This code applies to television and radio.

⁸ As a subsidiary of RTÉ, TG4 adheres to RTÉ's *Programme-Makers' Guidelines*.

Appendix XI

Extract from *Human Rights Convention*

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.'
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

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