

JANUARY 2008 EDITION

# PAY TELEVISION CODE OF BROADCASTING PRACTICE

RĀRANGI TIKANGA  
MĀ NGĀ KAIPĀHO  
MŌ TE WHAKAATA  
IRIRANGI  
HE UTU MŌ  
TE MĀTAKI ATU





# INTRODUCTION

**The Broadcasting Act 1989 requires broadcasters to be responsible for maintaining specified programme standards. The Act gives the BSA responsibility for approving broadcasting codes of practice (including this one) and for determining formal complaints alleging breaches of broadcasting standards. (See sections 4 and 21 of the Act.)**

**Pay television refers to television provided on a subscription basis (ie, viewers must pay to view the broadcast signal).**

**Pay television overall enjoys a less restrictive environment than free-to-air television because of the special choice subscribers make in paying to receive broadcasts.**

Protective mechanisms available for subscribers include:

- Electronic programme guides can be made available to provide additional programme information. Thus viewers can inform themselves on-screen about the content (meaning channels and programmes) they are accessing.
- Filtering technology (eg parental locks with PIN access) can be made available to protect younger viewers and limit access to unwanted content.
- Watersheds apply to content classified 18 if filtering technology is not automatically provided free of charge to subscribers.
- Subscribers are required to be aged over eighteen years.

This Code is based on four principles which balance adult freedom with responsibility to the vulnerable:

- Adult viewers should be able to make informed choices with a reasonable prior understanding of what they will see or hear.
- Children and young people are protected from content that may harm or disturb.
- Pay television broadcasters should operate in a socially responsible manner.
- Freedom of information and expression is respected, and balanced with the requirement to adhere to broadcasting standards.

The Code consists of Standards, which are supported by Guidelines intended to assist interpretation.

REVISED TO TAKE EFFECT FROM 1 AUGUST 2006. *NB: Standard P10 has not been revised as it forms part of three Codes of Broadcasting Practice and was last reviewed in 2004.*

# GROUNDS FOR A FORMAL COMPLAINT

Formal complaints allege that the broadcaster has failed in its responsibility to maintain one or more of the broadcasting standards set out in this code.

**STANDARD P1** – Content classification, warning and filtering

**STANDARD P2** – Good taste and decency

**STANDARD P3** – Children

**STANDARD P4** – Violence

**STANDARD P5** – Law and order

**STANDARD P6** – Balance

**STANDARD P7** – Fairness

**STANDARD P8** – Accuracy

**STANDARD P9** – Privacy

**STANDARD P10** – Liquor

## How To Make a Formal Complaint

Formal complaints must be:

- made in writing
- lodged with the broadcaster concerned within 20 working days of the broadcast.

The one exception is an allegation of breach of privacy (Standard P9) which may be made directly to the BSA without first being referred to the broadcaster.

Formal complaints should specify:

- the name of the programme
- the date and approximate time of broadcast
- the standard(s) alleged to have been breached and the reasons why.

*Refer to contact addresses on p.11.*

## About This Code

The requirements of the Code are set out in each standard. Each standard has a number of associated guidelines. These guidelines do not of themselves impose requirements on a broadcaster. They are included to provide interpretative assistance for broadcasters and the public, and indicate factors that the broadcaster should consider when assessing whether a programme complies with a particular standard.

A programme which does not adhere to the letter of a particular guideline may not be in breach, depending on the programme's overall compliance with the relevant standard.

# THE PAY TELEVISION CODE

Pay television broadcasters are responsible for maintaining the following broadcasting standards in the preparation and presentation of content that subscribers pay a fee to receive.

## STANDARD P1 – Content classification, warning and filtering

Te whakatau i te taumata o nga hōtaka, te whakatūpatō, me te tātari

Viewers should be informed by regular and consistent advice about programme content (including classifications and warnings) and, where available, filtering technology.<sup>1</sup>

## Guidelines

### Classifications and warnings

- (a) These classifications should be broadcast on all content except for news and current affairs and live content:
- (G) Approved for General viewing
  - (PG) Parental Guidance recommended for young viewers
  - (M) Suitable for Mature audiences 16 years and over
  - (16) People under 16 years should not view
  - (18) People under 18 years should not view

- (b) Classifications should screen at the beginning of programmes, be included in all electronic programme guides and accompany printed guides where possible.
- (c) News, current affairs and live content is not, because of its distinct nature, subject to classification. However, broadcasters must be mindful of children's interests and other broadcasting standards and include warnings where appropriate.
- (d) Visual warning labels should be broadcast immediately prior to content which is likely to distress or offend a substantial number of viewers, particularly where it is likely that viewers would not anticipate this effect due to the context or the nature of the content.
- (e) Visual warning labels will include:
  - (C) Content may offend
  - (L) Language may offend
  - (V) Contains violence
  - (VL) Violence and language may offend
  - (S) Sexual content may offend
- (f) Visual warning labels should also be included in electronic programme guides and in all relevant promotional material.
- (g) Verbal warnings should also be used when content is particularly likely to distress or offend a substantial number of viewers. When used, verbal warnings should screen at the start of the programme, with accompanying text if necessary.

<sup>1</sup> 'Filtering technology' means electronic technology that gives subscribers the ability to set a classification threshold beyond which programmes can only be accessed by using a PIN or other key which the subscriber can keep confidential.

- (h) Visual and verbal warnings are not required for live content on foreign ‘pass through’ channels with no local editorial intervention.

### Barriers to accessing content

- (i) Where filtering technology is not automatically made available in accordance with Guideline (j) below, content classified 18 may screen only between 8pm - 6am, or 9am - 3pm (other than weekend days, school holidays and public holidays when it may screen only between 8pm - 6am).
- (j) If filtering technology is automatically made available to subscribers free of charge, and regularly promoted by the broadcaster for subscriber use, content classified 18 may screen at any time provided other applicable broadcasting standards are adhered to.
- (k) The filtering technology may be made available on the basis that subscribers elect to use it, provided that a subscriber is easily able to initiate use at any time through the television remote or similar device.
- (l) Content classified 18 may screen at any time on premium channels (those where a separate and additional fee is payable by subscribers), provided other applicable broadcasting standards are adhered to.

### STANDARD P2 – Good taste and decency ngā tikanga papai me ngā tikanga rangatira

Current norms of good taste and decency should be maintained consistent with the context of each programme and its channel.

## Guidelines

- (a) Appropriate use of classifications, warnings and filtering technology in accordance with standard P1 above may assist broadcasters to comply with this standard.
- (b) The likely expectations of the audience for a channel, a programme and its scheduling will also be considered.
- (c) Explicit adult sex programmes classified 18 may screen only on premium channels.

### STANDARD P3 – Children tamariki

Broadcasters should ensure that child viewers are protected from unsuitable content.

## Guidelines

- (a) Channels targeted at children should only contain content appropriate for children.
- (b) Content not intended for children’s viewing should not be specifically promoted to children and will be screened in accordance with standard P1.
- (c) Content classified M or above, especially that containing sexual or violent material, should not screen adjacent to content aimed at children.
- (d) Themes and scenes in fictional content dealing with matters known to disturb children, such as domestic friction or the humiliation or ill-treatment of children, should be appropriately classified and scheduled.
- (e) Any portrayal of realistic violence in content likely to be viewed by children should be scheduled and classified with care.

- (f) Security systems, eg filtering technology, which are in place to protect children, should be clearly and regularly promoted to subscribers.

[For the purposes of this Code, a 'child' is a person under 14 years of age unless otherwise specified.]

## STANDARD P4 – Violence te taikaha

**Violent content should be appropriate to the context of the programme and classified carefully in accordance with Standard P1.**

### Guidelines

- (a) Content featuring violence should be appropriately classified, with warnings if necessary, in accordance with standard P1.
- (b) Content should not include any combination of violence and sex designed to titillate.
- (c) Rape as a theme in any content should be treated with utmost care. Explicit detail and prolonged focus on sexually violent contact should be avoided.
- (d) Devices and methods of inflicting pain or injury, particularly when capable of easy imitation, should not screen without the most careful consideration by the broadcaster.
- (e) Violent incidents during or surrounding play in sporting coverage should not be gratuitously repeated.

## STANDARD P5 – Law and order te ture me te āta noho

**Content should be consistent with the maintenance of law and order.**

### Guidelines

- (a) Content should not promote serious anti-social or illegal behaviour.
- (b) News or events should not be simulated in a way which encourages widespread public alarm.

## STANDARD P6 – Balance he tirohanga tūtika

**News and current affairs content dealing with controversial issues of public importance should be balanced, with significant sides to these issues presented in as fair a way as possible.**

### Guidelines

- (a) Factual content which clearly approaches such issues from a particular perspective may not be required to be balanced but should be fair in accordance with standard P7.
- (b) No set formula can be advanced for the allocation of time to interested parties on controversial issues.

## STANDARD P7 – Fairness te tika

People and organisations taking part or referred to in programmes should be dealt with fairly.

### Guidelines

- (a) The editing of extracts of programme material should not distort the original event or original views expressed.
- (b) People should not be portrayed in a way which represents them as inherently inferior or which encourages discrimination against a section of the community protected by human rights legislation.
- (c) Children and young people taking part or referred to should not be exploited, humiliated or unnecessarily identified.
- (d) Nothing in this standard is intended to prevent the broadcast of content which is:
  - (i) factual, or
  - (ii) the expression of a genuinely-held opinion in news, current affairs or other factual programmes, or
  - (iii) in the legitimate context of a dramatic, humorous or satirical work.

## STANDARD P8 – Accuracy te pono

Significant errors of fact should be corrected at the earliest opportunity.

## STANDARD P9 – Privacy te noho matatapu

Content should conform to the Privacy Principles outlined in Appendix 1.

## STANDARD P10 – Liquor waipiro

Restrictions on the promotion of liquor will be applied appropriately to the programme genre being broadcast. Liquor promotion must be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor.

### Definition

Liquor promotion comprises:

- promotion of a liquor product, brand or outlet ('promotion')
- liquor sponsorship of a programme ('sponsorship')
- advocacy of liquor consumption ('advocacy')

## Guidelines

- (a)** Liquor promotion must not appear in programmes specifically directed at children.
- (b)** Broadcasters must ensure that Liquor promotion does not dominate programmes.
- (c)** Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline (b) into account.
- (d)** Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor's sales message.
- (e)** Promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a subordinate manner, be confined to the brand, name or logo and must not include a sponsor's sales message.
- (f)** When scheduling liquor-sponsored programmes, broadcasters must also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority's Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period).
- (g)** In the preparation and presentation of programmes, broadcasters must avoid advocacy of excessive liquor consumption.

*Note: To assist programme makers, sports organisations and sponsors, broadcasters have published guidelines for restrictions on Liquor Promotion in the coverage of sports events. Links are on the BSA's website.*

# APPENDIX 1

## Advisory Opinion: Privacy Principles

1. It is inconsistent with an individual's privacy to allow the public disclosure of private facts, where the disclosure is highly offensive to an objective reasonable person.
2. It is inconsistent with an individual's privacy to allow the public disclosure of some kinds of public facts. The 'public' facts contemplated concern events (such as criminal behaviour) which have, in effect, become private again, for example through the passage of time. Nevertheless, the public disclosure of public facts will have to be highly offensive to an objective reasonable person.
3. (a) It is inconsistent with an individual's privacy to allow the public disclosure of material obtained by intentionally interfering, in the nature of prying, with that individual's interest in solitude or seclusion. The intrusion must be highly offensive to an objective reasonable person.  
(b) In general, an individual's interest in solitude or seclusion does not prohibit recording, filming, or photographing that individual in a public place ('the public place exemption').  
(c) The public place exemption does not apply when the individual whose privacy has allegedly been infringed was particularly vulnerable, and where the disclosure is highly offensive to an objective reasonable person.
4. The protection of privacy includes the protection against the disclosure by the broadcaster, without consent, of the name and/or address and/or telephone number of an identifiable individual, in circumstances where the disclosure is highly offensive to an objective reasonable person.
5. It is a defence to a privacy complaint that the individual whose privacy is allegedly infringed by the disclosure complained about gave his or her informed consent to the disclosure. A guardian of a child can consent on behalf of that child.
6. Children's vulnerability must be a prime concern to broadcasters, even when informed consent has been obtained. Where a broadcast breaches a child's privacy, broadcasters shall satisfy themselves that the broadcast is in the child's best interests, regardless of whether consent has been obtained.
7. For the purpose of these Principles only, a 'child' is defined as someone under the age of 16 years. An individual aged 16 years or over can consent to broadcasts that would otherwise breach their privacy.
8. Disclosing the matter in the 'public interest', defined as of legitimate concern or interest to the public, is a defence to a privacy complaint.

### Note:

- *These principles are not necessarily the only privacy principles that the Authority will apply.*
- *The principles may well require elaboration and refinement when applied to a complaint.*
- *The specific facts of each complaint are especially important when privacy is an issue.*

# CONTACTS

## Contact details for making formal complaints about a Pay TV programme

### Sky

The Chief Executive  
Sky Television  
PO Box 9059  
AUCKLAND  
Phone: (09) 579 9999  
Fax: (09) 579 0910  
Web: [www.skytv.co.nz](http://www.skytv.co.nz)

### TelstraClear

The Chief Executive  
TelstraClear  
Private Bag 92143  
AUCKLAND  
Web: [www.telstraclear.co.nz](http://www.telstraclear.co.nz)

## Contact details for advertising complaints

### Advertising Standards Complaints Board

PO Box 10 675  
Wellington  
Phone: (04) 472 7852  
Fax: (04) 471 1785  
Email: [asa@asa.co.nz](mailto:asa@asa.co.nz)  
Web: [www.asa.co.nz](http://www.asa.co.nz)

For more on the broadcasting standards regime see [www.bsa.govt.nz](http://www.bsa.govt.nz)

### Broadcasting Standards Authority

2nd Floor, 54-56 Cambridge Terrace,  
Wellington 6141, New Zealand  
PO Box 9213  
Phone: (04) 382 9508  
Fax: (04) 382 9543  
Email: [info@bsa.govt.nz](mailto:info@bsa.govt.nz)  
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