

RTÉ PROGRAMME STANDARDS AND GUIDELINES 2008

The definitive version of these Standards and Guidelines is the electronic version (available on the RTÉ website) which is updated as required. Those using a print version should cross-check with the electronic version to ensure that they are accessing the most up-to-date advice and regulations.

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Note

This 2008 edition replaces the 2007 edition. This new edition takes account of changes in legislation, regulation and the broadcasting environment that have taken place over the last five years. Some sections remain unchanged from the 2007 edition, some are amended and some are entirely new.

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NOTE

In 2008 new Broadcasting legislation is due which may significantly change many aspects of RTÉ's operations and structures. In addition there are proposed changes due in the laws on Privacy and Defamation. The *Programme Standards and Guidelines* will be updated when the new legislation is enacted. Please check the last revised date on cover.

Introduction

Welcome to the 2008 edition of *RTÉ Programme Standards and Guidelines*. This welcome is extended to all programme-makers, both those working in RTÉ and those working on programmes commissioned by RTÉ and to the public who access our Radio, Television, Online and Publishing services. These Standards and Guidelines set out the editorial policies of RTÉ, our legal status and obligations, our responsibilities, our aspirations to achieve the highest standards and our commitments.

Trust is central to public servicing broadcasting. If RTÉ is to prosper it can only be based on the confidence of the Irish people that they can trust what they see and hear on their radios, televisions and computers. RTÉ must be accountable for all it does. The public are entitled to expect nothing but the best from RTÉ. These guidelines provide a yardstick by which the public can judge us. To programme-makers we say go and make the best possible programmes with integrity, honesty and imagination; to the public we say hold us accountable to the highest standards. RTÉ holds a central place in Irish public life; we provide much of the information necessary to understand the complexities of contemporary society, we reflect the cultural diversity of the island, we entertain, we provoke, we investigate, we contextualise and we provide the public space for debate and analysis. Fundamental to all we do has to be a rigorous commitment to some key editorial principles.

Fairness and Honesty
Impartiality
Objectivity and Accuracy
Integrity and Independence
Diversity of Opinion
Respect for the Vulnerable
Accountability

These editorial principles are examined in detail in the sections to come. They are the cornerstone of public service broadcasting and must inform everything we do. RTÉ has been broadcasting for 80 years to the people of Ireland. We have built up a reputation with our audience which we intend to maintain. These Guidelines provide assistance to programme-makers to ensure that our reputation is enhanced in the years to come and that the public can continue to trust in RTÉ.

The Guidelines comprise a mixture of mandatory requirements (in bold type) and guidance to programme-makers. They also inform the public of the editorial and ethical principles which underpin all of RTÉ's output.

Cathal Goan
Director-General

The Legal Framework and Public Service Broadcasting

Legal Framework

RTÉ Radio began broadcasting to the Irish people in 1926. For the first 35 years its employees were full civil servants working in the Department of Posts and Telegraphs. It was not until the Broadcasting Authority Act 1960 that the legislative independence and editorial obligations of broadcasting began to be established. The key pieces of legislation for public service broadcasting are the 1960 Act, the Broadcasting Authority (Amendment) Act 1976 and the Broadcasting Act 2001.

The 1960 Act put in place the legal basis for the establishment of the RTÉ Authority and the RTÉ staff structure. For programme-makers the key section of the Act is Section 18.

It shall be the duty of the Authority (i.e. RTÉ) to secure that, when it broadcasts any information, news or feature which relates to matters of public controversy or is the subject of current public debate, the information, news or feature is presented objectively and impartially and without any expression of the Authority's own views.

This section sets out quite unambiguously the requirement for RTÉ to be objective and impartial and not to use the airwaves to express its own views. This latter obligation is understood to mean that RTÉ should not editorialise in its programming and that journalists and producers should not allow their personal views to unduly influence programming. This does not however mean that presenters are excluded from expressing their own views on occasion as long as it is clearly understood by the audience that the views expressed are not necessarily those of RTÉ.

The 1976 Act refined the obligations for objectivity and impartiality and went on to extend other obligations

Section 3 of the 1976 Act added to section 18 of the 1960 Act and stated that:

(1)(a)

All news broadcast by it (RTÉ) is reported and presented in an objective and impartial manner and without any expression of the Authority's own view

(1)(b)

The broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the Authority's own views

This section added the requirement that in addition to being impartial and objective RTÉ must also be fair in its current affairs coverage. It also critically allowed the objectives of impartiality, objectivity and fairness in current affairs to be achieved over a number of related broadcasts. The Act stated:

Should it prove impracticable in a single programme to apply paragraph (b)...two or more related broadcasts may be considered as a whole; provided that the broadcasts are transmitted within a reasonable period.

The 1976 Act provided one exemption to the broadcast of expression of RTÉ's own views. The Act permitted RTÉ to editorialise on matters relating to broadcasting policy.

The 1976 Act went on to impose on RTÉ the obligation that nothing be broadcast *which may reasonably be regarded as likely to promote, or incite to, crime or as tending to undermine the authority of the State.*

The Act also required RTÉ to not *unreasonably encroach on the privacy of an individual.*

The Act also established the Broadcasting Complaints Commission to adjudicate on complaints that RTÉ had breached any of the above obligations.

The Broadcasting Act 2001 in section 19 directed the Broadcasting Commission of Ireland to draw up codes which would apply to all broadcasting organisations licensed in the State. These included:

(a) A code specifying standards to be complied with, and rules and practices to be observed, in respect of the taste and decency of programme material...and, in particular, in respect of the portrayal of violence and sexual conduct

(b) a code specifying standards to be complied with, and rules and practices to be observed in respect of advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service...

(c) a code specifying standards to be complied with, and rules and practices to be observed, in respect of advertising...which relates to matters likely to be of direct or indirect interest to children.

Provision was also made for the drawing up of broadcast requirements for people who are deaf or hard of hearing or who are blind or partially sighted.

The 2001 Act in section 24 (2)(f) provided for the Broadcasting Complaints Commission to adjudicate on complaints that in a broadcast *an assertion was made of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation.*

At all times in considering the legal framework of broadcasting it is necessary to keep in mind the constitutional right of freedom of expression which is every citizen's right and the role the media must play in providing a means for citizens to exercise that right. Freedom of Expression, whether defined in the constitution or in Irish or European law, is an important part of the armoury of public service broadcasting as it sets out to serve the people through the provision of information, opinion and debate.

Useful descriptions of RTÉ's structures and functions can be found on the RTÉ website (www.rte.ie) in the *About RTÉ* section.

Public Service Broadcasting

The Broadcasting Act 2001 requires RTÉ to maintain public service broadcasting on television and radio. The Act says in Section 28 (2) that RTÉ must

(a) provide a comprehensive range of programmes in the Irish and English languages that reflect the cultural diversity of the whole island of Ireland and include...programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of the community generally as well as members of the community with special or minority interests, and which, in every case respect human dignity

(b) provide programmes of news and current affairs in the Irish and English languages, including programmes that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament

(c) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.

The Department of Communications, Marine and Natural Resources has published a **Public Service Broadcasting Charter** which describes what is expected from RTÉ as the national public service broadcaster. The full document is available at (www.dcmnr.gov.ie). The Charter defines RTÉ's Public Service remit

RTÉ, as the national public service broadcaster shall reflect the democratic, social and cultural values of Irish society and the need to preserve media pluralism

RTÉ shall, at all times, strive to reflect fairly and equally the regional, cultural and political diversity of Ireland and its peoples.

No editorial or programming bias shall be shown in terms of gender, age, disability, race, sexual orientation, religion or membership of a minority community.

News reporting and public affairs coverage shall be undertaken from a variety of perspectives; events should not be assessed and reported upon from a Dublin perspective alone.

RTÉ programming shall reflect regional diversity and include a significant range and proportion of indigenous programming made outside the greater Dublin area.

In its programming, RTÉ shall ensure that children are respected as young citizens with a valued contribution to make and a voice of their own.

RTÉ acknowledges the strong influencing powers of broadcasting, particularly on children and young people. In its programming RTÉ shall have regard to the responsibilities associated with this.

In reflecting the bilingual nature of Irish society, RTÉ shall actively support the use of the Irish language in everyday life through the production of suitable programming

RTÉ programming shall be socially inclusive and shall reflect the lives and concerns of all social strata in Ireland.

RTÉ shall take into account the needs of those with a physical, sensory or intellectual disability. RTÉ shall take measures to increase the accessibility and relevance of programming to such an audience.

In its programming and editorial content, RTÉ shall strive to resist gender stereotyping.

In its programming, RTÉ shall respect the sanctity of an individual's private life, unless a compelling public interest demands otherwise.

The charter goes on to describe the services RTÉ should provide on its radio and television channels, with its performing groups and in its Online services. It also describes how RTÉ should perform in regard to accountability.

RTÉ has published its **Guiding Principles – Implementing the Public Service Broadcasting Charter**. The full document is available on the RTÉ website in the “About RTÉ” section (www.rte.ie/about/guiding_principles). This document sets out RTÉ's core values which should underpin all of RTÉ's services.

RTÉ's Core Values

Always put the audience first and be a universal free-to-air service

Reflect the diverse values of the people of Ireland, specifically cultural, including language, religion and regional needs across all age groups

Provide high quality, popular programming and services including archives

Be creative in our output, with the confidence to take risks

Provide a value for money service

Operate in a fair and transparent manner

Be accurate and impartial in all News coverage

Provide insightful and challenging Current Affairs coverage

Fairness and Honesty

Fairness and honesty are probably the most important qualities which RTÉ programme-makers should strive to achieve in their output. More than anything else listeners to RTÉ radio, viewers of RTÉ television and users of RTÉ's Online services should feel that RTÉ's output is fair and honest. RTÉ exists to serve all the people of Ireland. The minimum the public can expect is that RTÉ will treat fairly and honestly their interests, their views, their beliefs, their heritage and their aspirations. Public service broadcasting must keep fairness and honesty at the very centre of all its transmissions. This applies to the general public using RTÉ's services and to those who are invited to participate in programmes or who feature in news reports. The audience must have a sense that the programme-makers are making their best efforts to be truthful and that they are not on one side or another, that they don't represent vested interests and that they have no personal interest in what they broadcast.

Amongst other obligations to the public this means that programme-makers must be honest in their invitations to participants in programming, must be honourable in their editing of interviews and must reflect a sustained commitment to fairness in all programming and in its treatment of the audience.

When programme-makers approach members of the public and ask them to take part in programmes, the nature and purpose of the programme should be made clear to them. People should not be deceived about the intent of the production. It is acceptable that the nature of a programme may crystallise in the course of research and production so that a focus emerges which may not have been apparent when the production started. It is nevertheless desirable that programme-makers are honest with participants at every stage. If the focus of a report changes substantially during the making of a report participants should be informed of the change in focus. In News and Current Affairs programming there may be occasions when a request to withdraw may be refused if there are strong editorial grounds to proceed with the broadcast as originally intended. The decision to proceed should not be taken without the approval of appropriate editorial manager.

There may be on occasion an entertainment programme, which builds an element of surprise or deception into its production. In all cases participants must have it made clear to them the true nature of the programme before it is broadcast. If a participant wishes to be excluded from the broadcast, the production team should honour those wishes.

Investigative reporting

On occasion an investigative report may call for a degree of deception to enable an investigation to take place in the public interest. (An example would be where a reporter investigating dishonest practices in the motor industry pretends to be an ordinary consumer and asks a garage to repair a car.) This can only be done with the permission of the appropriate Division Head, which must be obtained, in advance of recording. This requirement applies both to RTÉ staff and to independent production companies commissioned by RTÉ to make programmes. In the latter case the request to the Divisional Head should be channelled through the appropriate Commissioning Editor. The Division Head must be satisfied that such deception is in the public interest and that there are no other methods of making the report available in as

effective a manner. People who have been filmed or recorded in deceptive circumstances must be told in advance of any broadcast and offered an opportunity to present their case in the light of the filming or recording. (**See Section on Surreptitious Recording, Use of Hidden Cameras and CCTV.**)

The re-broadcasting of material

Programme-makers should take special care when material is being re-used in a different context to the original recording or if it is being re-broadcast some considerable time after the original recording. The subsequent usage may be unfair or unjustifiably distressing to the participants. Before re-broadcasting of material production teams should have regard for any documentation that exists concerning consent forms, contracts, etc. The passage of time, new developments in the subject matter and the juxtaposition of the material in the editing process may all change the nature of the contribution and allow something unfair to be broadcast.

Impartiality

RTÉ is a major provider of the vehicle for public debate. On our airwaves the listening and viewing public should be able to hear all sides of national debate. They should be able to regard the presenters of programmes as neutral and not coming down on one side of an issue of public controversy. The amount of attention given to any group arguing a particular case ought to be carefully considered, as too much attention to one interest may distort a public debate. In its programming RTÉ ought to reflect the main trends of thought and the major currents of opinions. The audience should be able to regard reporters as impartial, outlining the facts of a case and not favouring one side over another. This concept does not however mean that there cannot be passion and commitment in programming. It means that programme-makers accept an obligation to present fairly the facts as they find them, to allow all sides an opportunity to present their views.

The importance of RTÉ News as a key purveyor of impartial information to the Irish people cannot be over-stressed. Whatever licence may exist for opinion and expression of personal views in general programming there is a strict obligation within news to observe due impartiality. RTÉ's legal obligation to impartiality extends only to news and current affairs (defined in section 3 of the Broadcasting Authority (Amendment) Act 1976 as *including matters which are either of public controversy or the subject of current public debate.*) Clearly responsibilities in regard to impartiality have to be interpreted differently in comedy, sports, drama, etc. Unique considerations may apply in each case.

Presenters and impartiality

There is a particular onus on programme presenters to be impartial. Presenters should be seen as referees between competing viewpoints, encouraging debate. When an interview is taking place with only one side in a debate represented the presenter may put competing viewpoints to the interviewee. The *devil's advocate* role is clearly recognised as a legitimate and, at times, necessary role for presenters. This role can be adopted without loss of impartiality. For most of the audience RTÉ is personified by its presenters. They are in a very real sense the voice and face of RTÉ. The audience need to be able to regard them as impartial, just as much as they must regard them as fair and accurate. Presenters and reporters in news and current affairs need to be especially vigilant in this regard. The obligation to impartiality does not mean that interviewers cannot express critical and provocative points of view as long as the interviewee is given the opportunity and the time to respond to the questions asked.

The one genre of programming where the presenter can give his or her opinion more freely is that of Authored Programmes. There is a place in broadcasting for comment as well as the presentation of facts. The public's understanding of issues is enhanced through the availability of Authored Programmes. It is important for the public perception of RTÉ's impartiality that Authored Programmes be identified as the opinion of the presenter. There is also an obligation to ensure that fairness is not lost in Authored Programming. Generally speaking Authored Programming works better when the presenter has some independence from RTÉ. (See section on **Authored Programming**)

Objectivity and Accuracy

RTÉ broadcasts in a very competitive environment. There are many radio, television and internet news services available. In order to maintain a centrally relevant place in public life it is essential that the public can have confidence in the objectivity and accuracy of what they hear, see and read on RTÉ services. It must be RTÉ's ambition that the majority of the public looks to RTÉ radio, television and web services to provide them with much of the information they need as citizens of the State to participate in the democratic process. Accuracy in the facts RTÉ present is important to maintain this function. Sources must be checked and rechecked. It is not sufficient that information seems to be true or that a source appears to be convincing. Corroborative confirmation should be a priority before broadcasting any news.

Rumours or speculation must not be broadcast as facts. The natural ambition to broadcast news first cannot come before the obligation to be accurate. Equally programme makers need to avoid using exaggerated language in their reporting. Journalists should ensure that their personal opinions and value judgements are avoided in their reporting. It is a cliché worth repeating, "let the facts speak for themselves". Do not under-estimate the ability of the audience to understand the facts without embellishment or comment. Critically assess your use of adjectives; a single adjective can render a statement of fact inflammatory or otherwise inappropriate. The further a report deviates from the facts the more the likelihood that objectivity will be lost. Journalists must take great care in their choice of terminology as objectivity can be impaired unintentionally. An example of this is the choice of the terms *militant*, *freedom-fighter*, *terrorist*, etc. A different meaning can be taken depending on which term is used to describe a person's status.

Public Confidence in RTÉ

It cannot be overstressed how important it is for the public to have confidence in RTÉ. At times of crisis or major events it is to RTÉ primarily that the public turn for information and advice. This confidence in our broadcasting has been established over many decades and must be maintained. It is more important than any competitive desire to be first with the news. Accuracy must come first, speed second. With the move towards almost-continuous news services this is a more important consideration than ever. This consideration applies equally to all RTÉ's media, Radio, Television, Aertel and Online.

The requirement to be accurate spreads beyond the inputs of RTÉ reporters, presenters, etc. RTÉ is also obliged to ensure as far as possible that contributors to programming are accurate in their assertion of facts. Presenters in live programmes need to be constantly alert for comments by contributors which may be inaccurate. Presenters may need to challenge statements of fact if they doubt the veracity of what is said. The programme may need to distance itself from what a contributor says. It is necessary for presenters and their producers to keep in mind at all times the possibility of confusion between fact and opinion. If a presenter has a doubt about the accuracy of something said on air by a contributor, immediate consideration must be given to challenging the statement, contradicting it or distancing RTÉ from it. This will not avoid liability for RTÉ if such liability arises (i.e. in defamation). However it may ameliorate the consequences of any such liability. If attention is drawn to an inaccurate statement made in a programme it may be necessary to consider broadcasting a correction. In all cases where consideration is being given to

broadcasting such a correction the advice of the appropriate editorial supervisor must be sought. Sometimes the inaccuracy may be too insignificant to justify a correction; sometimes there may be alternative means of giving the audience the correct statement of fact (for example in another programme).

See the section on the **Broadcast of Corrections, Clarifications and Apologies**.

The 2001 Broadcasting Act in section 24 (2)(f) extends the remit of the Broadcasting Complaints Commission (BCC) to review a complaint that in a broadcast

... an assertion was made of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation.

This section of the Act gives a member of the public the right to bring a complaint to the BCC that RTÉ broadcast something inaccurate which damaged that person's reputation. An example might be on a sports programme where a contributor said that a team's performance had been below par as the coach hadn't turned up to a training session. If this was untrue it would be an attack on the coach's reputation and a complaint to the BCC would be upheld.

Integrity and Independence

A central component of any successful public service broadcasting organisation is public confidence in the integrity and independence of what they hear and see on the airwaves. The public have the right to expect public service broadcasting to be independent of all vested interests and not to compromise itself for any reason.

Editorial Independence

RTÉ must be editorially independent of government, business interests, political parties, trade unions, and pressure groups. RTÉ is there to serve the public. The importance of perception as well as reality needs to be stressed. The broadcasting media are in an important position of influence, as access to broadcasting can confer status, influence, prestige and occasionally economic advantage. It is absolutely vital that the viewing and listening public have confidence in the motives of the producers and presenters who determine the contents of programmes. There must not be any perception that presenters and reporters personally benefit from their decisions as to who participates in programmes, what products are featured and what issues are discussed. Equally important there must be no grounds for the perception that editorial decisions in some way reflect the personal views of production teams. As citizens all programme-makers have rights to their own private views about topics of current debate - but these views must not be seen to determine agendas, lines of questioning, editorial decisions and the like in programming. Other than the discrete wearing of crosses, crescents, Stars of David, etc. RTÉ does not permit presenters to wear on screen religious or political badges or symbols

Presenters and Gifts

RTÉ presenters and other production staff must not accept any offers which might compromise RTÉ's independence and integrity. In particular the acceptance of gifts beyond those of a nominal value is not permitted. Promotional work on behalf of any commercial organisation is not permitted. All requests for speaking engagements, chairing of meetings, etc. must be referred to appropriate managers for approval in advance. Presenters are not permitted to accept offers of the use of cars from suppliers, even if there is no promotional commitment involved. Freelance contractors employed as presenters by RTÉ are obliged to disclose any commercial activity they are involved in which might compromise RTÉ.

Presenters and Commercial Promotions

RTÉ presenters must not promote in their programmes commercial ventures that they are associated with or that they stand to gain from financially.

Products in Programmes

Product placement (the placing of branded products in programmes in return for payment) is not permitted under current EU directives. Consideration must also be given to avoiding undue product prominence in programmes. Producers must not accept products for display in programmes at reduced cost or free where editorially unjustified attention is given to the products. Offers of assistance in travel or accommodation can only be considered where acceptance does not damage the editorial independence of the programme. In all cases before accepting any such offers editorial management approval must be sought. This applies equally to in-house production and commissioned production.

Prizes in Programmes

Production teams must also be sensitive to the apparent endorsement of products which may result when prizes are given in programmes. When describing prizes presenters should not use advertising copy. See the section **Advertising, Sponsorship and Commercial Considerations**.

Care must be exercised in accepting hospitality which might be perceived as compromising RTÉ's independence. Involvement in training courses could also compromise RTÉ. All requests for involvement in training courses must be approved by the relevant Managing Directors or their equivalents. Presenters should not allow themselves to be associated with the commercial interests of products or services. Further advice and guidance is available in the **RTÉ Code of Business Conduct** available on the RTÉ website in the *RTÉ Policies* section.

Encouraging the audience to use premium-rated phone calls and text messaging can be seen as compromising RTÉ's integrity. See the section on **Premium Calls**.

RTÉ Online and Associated Links

All the above considerations also apply to RTÉ Online. In regard to the inclusion of links on RTÉ sites to commercial sites care must be taken to avoid compromising RTÉ's integrity and independence. Whilst RTÉ cannot be held responsible for material and services accesses on linked sites RTÉ should ensure that its reputation is not damaged by any association with these sites. Linked sites should be accessed on a regular basis to ensure their suitability. Information to users indicating that they are leaving the RTÉ site should be considered.

See sections on **Reporting of Financial Information** and **Helplines and Charity Appeals**.

Diversity of Opinion

RTÉ is obliged to provide a radio and television service which is available to all the people of Ireland. Its output should reflect the experiences and interests of all the people. Ownership of RTÉ rests with the people. RTÉ is the people's broadcaster. What this means is that the public are entitled to expect in the programmes they listen to and watch views and values which reflect their own experience of life in Ireland today. To achieve this a range of views must be accommodated. This is the challenge facing programme-makers. As Irish society changes RTÉ must be sensitive to those changes. Programme contributors and the values found in programming need to reflect that diversity. In the choice of contributors, in the composition of panels, in the selection of interviewees, in the development of drama scripts, in the choice of topics for documentaries programme-makers are obliged to reflect contemporary society. RTÉ's output should reflect the mosaic that is Ireland today with its religious and spiritual beliefs, its ethnic mix, its age profile, its educational attainments, its political views, its economic positions, its linguistic mix, its diverse interests in arts and sports, its cultural diversity, etc. Programming should be inclusive of all that makes up Ireland today. Regional as well as metropolitan experience and values must be accommodated.

RTÉ's output in addition should not be insular. Our programmes should embrace understanding and tolerance of the wider world. The richness of the diversity of mankind should find a place on RTÉ airwaves.

These obligations are found in section 13 of the Broadcasting Authority (Amendment) Act 1976 where it is stated that RTÉ in its programming shall be

Responsive to the interests and concerns of the whole community, be mindful of the need for understanding and peace within the whole island of Ireland, ensure that the programmes reflect the varied elements which make up the culture of the people, and have special regard for the elements which distinguish that culture and in particular for the Irish language

Uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression and have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including in particular those of such countries which are members of the European economic Community

Programme-makers should see their function as providing vehicles for the expressions of other people's views rather than vehicles for the expression of their own views. The audience should have access to the professional judgment of presenters, but not generally of their own personal views.

See the section on **Authored Programmes**.

Respect for the Vulnerable

Broadcasting is a powerful medium with the ability to influence public opinion and policy. Programme-makers need to be conscious of the responsibility they have to use this power for the public good. As programme-makers they will be subject to unequal competing interests vying for access to this powerful medium. Apportioning attention must be driven by a sense of fairness. This involves recognising that some legitimate interests may not be organised or articulate, while other interests will be highly resourced and well-marshalled. In particular in every society there are individuals and groups that are vulnerable and are likely to be under-represented in broadcasting unless programme-makers are active in ensuring that their voices are heard.

Much of public debate takes place through political parties, pressure groups, trade unions, lobby groups and professional associations. Programme-makers need to take into account that all individuals are not represented by such organisations and there must always be space in public service broadcasting for the individual to tell his or her own story. In choosing which individuals should have access to the airwaves special attention needs to be paid to vulnerable individuals and groups.

As well as providing access for marginalised and vulnerable people to Radio, Television and Online programme-makers need to ensure that due respect is given to those less familiar with public debate or less confident in their ability to engage in debate.

Programme-makers should familiarise themselves with relevant legislation on this area such as the Employment Equality Act 1998 and the Disability Act 2005 (both accessible at www.irishstatutebook.ie). The nine stated grounds whereby discrimination is illegal are gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.

Accountability

In **RTÉ's Guiding Principles** it is stated that *RTÉ is a non-profit making organisation owned by the Irish people* and that it strives to provide the public with *the best possible indigenous content giving value for money on a fully accountable basis*. So RTÉ must be accountable both for the programming it makes and the way in which it spends its revenue. The concerns of programme-makers in terms of accountability are primarily those relevant to programme content. In so far as it is possible programme makers should, when called upon, justify their editorial decisions and priorities. RTÉ is committed to respond meaningfully to all complaints it receives about programme standards and other aspects of our output. All programme-makers are obliged to participate in this process. See sections on **Dealing with Complaints about Programmes** and **Broadcasting Complaints Commission**.

Access to Information

If RTÉ is to be meaningfully owned by the Irish people it is essential that the public have access in the clearest possible manner, consistent with the need to remain competitive, with as much information as possible about what RTÉ does and how it is done. Every service RTÉ provides is in the public domain. Therefore there is a logic that, in so far as is possible, the mechanism whereby RTÉ makes programmes should be understood.

Financial Accountability

Equally, as RTÉ is in receipt of considerable sums of public monies each year, it should be accountable for the way in which that money is spent. The only reservation which should be taken into account is the requirement to remain competitive with rival broadcasters. Programme-makers are required to justify their expenditure on their programmes. Depending on competitive issues this may be internally or externally.

Defamation

Every citizen has the right to free speech. But every citizen also has the right to preserve his or her reputation. There is a balance of interests. Broadcasting is essentially about the dissemination of information. Therefore the right to free speech is an essential part of any broadcaster's armoury. But programme-makers also need to be very conscious of the possibility of defamatory content in their programmes and the consequences stemming from that.

Definition of Defamation

A defamatory statement is commonly defined as *a false statement about a person which tends to lower that person in the eyes of right-thinking members of society or tends to hold that person up to hatred, ridicule or contempt or causes that person to be shunned or avoided by right-thinking members of society*. Where such a statement is wrongfully broadcast or otherwise published then that person may have a defamation action in civil law. It should be noted that not every publication of a defamatory statement or matter will attract liability as otherwise communication in society would be an impossibility.

Care must always be exercised when statements are made about individuals which may damage their reputation in the eyes of the public. Programme-makers should check thoroughly all facts and verify all statements. However, this is not going to be possible on all occasions. But an awareness of the possibility of broadcasting something defamatory should be at the forefront of programme-makers' minds both in editing recorded material and in live programmes. It is also necessary to keep in mind that if litigation should result from a broadcast a level of proof beyond that which normally applies in journalism may be required. The level of proof required may be that of the courts. In a libel trial the onus of proof is on the person who made the statement (or the publisher), not the person about whom the statement was made. Programme-makers should note that deliberate ambiguity or innuendo is no defence. If a programme or a report ends up in a court a judge or a jury decides what meaning to take from a report. The intention and motive of the programme-maker are generally irrelevant. All that counts is what the judge or jury thinks the programme means.

Particular care needs to be taken when "innocent" visual material is included in a report. For example if a report is dealing with illegal drugs, taking shots of young people at a disco might imply that those particular young people are engaged in illegal activity. If they are recognisable they may have a case to claim defamation against the broadcaster.

Defences against Defamation Claims

There are three main defences against a defamation claim under the longstanding rules of the law of defamation.

- Firstly that the statement published is true. The level of proof will be the same as in other court cases. Witnesses have to be summoned and face cross-examination.

- The second defence is honest comment on a matter of public interest (in legal terms known as fair comment, although strictly speaking the comment or opinion need not be fair). This defence is particularly important in public debate where often exaggerated claims are made and rhetoric can get out of hand. If there is any suggestion of actual malice or an improper purpose by the programme-maker in relation to the making of the comment or its broadcast this defence falls.
- The third defence is privilege. In certain circumstances the law in striking a balance between the right of expression and the right to protect reputation deems certain publications containing defamatory matter worthy of protection in precedence to claims of rights asserted by the person or persons about whom the statements are made. Reports of proceedings in the Oireachtas are privileged. There is also privilege attached to reports of court proceedings. This privilege only applies to fair and accurate contemporaneous reportage. The second schedule to the Defamation Act, 1961 contains a non-exhaustive list of incidences where privilege arises (an example of this would be reports of local council meetings). The general law also confers protection on a broadcaster or publisher in certain circumstances

In live programming something unanticipated may be said by a studio guest which may appear to be libellous. It is very important that the studio presenter be aware of potential libel. A quick intervention by the presenter can either see off the potential libel or diminish its impact. Certainly if a libel action goes to court it is in RTE's interest that it can be shown that the libel could not have been reasonably anticipated and that the presenter attempted to stop the potential libel taking place.

When something is broadcast which is inaccurate or false there may be a request to publish a correction. Sometimes an issue can be resolved by quickly correcting an inaccuracy. But to broadcast a correction or an apology does not defeat a subsequent legal case. It may reduce damages. **Advice must always be sought if an apology or a correction is being planned.** (See the next section on the **Broadcast of Corrections, Clarifications and Apologies**) Programme-makers should note that a correction in favour of one party may simply libel someone else.

Whenever there is a possibility of broadcasting a statement which might conceivably lead to defamation claims, programme-makers must inform their line management in time to allow a considered decision about the broadcast. **Time must also be allowed to seek legal advice.**

The Broadcast of Corrections, Clarifications and Apologies

No matter how carefully prepared programmes are, there will always be occasions when it will be necessary to return to a subject to clarify or correct what was broadcast. RTÉ strives to be accurate in all the information it disseminates. However mistakes will occur. If a mistake is pointed out to RTÉ and it is deemed to be of a relatively trivial nature, the programme will not refer to the mistake on air. However every effort must be made to avoid repeating the mistake again. If the mistake is more substantial and the view is taken that the public record needs amending the programme responsible for the broadcast of the inaccurate information will clarify matters on air as soon as feasible.

If the clarification is sought by a third party and there is the possibility of any follow up that might compromise RTÉ's reputation any proposed clarification must be scripted and cleared with the programme's editorial management in advance of broadcast.

If there is the possibility of any legal issues arising either from the original broadcast or the clarification, programme-makers must in the first instance consult their editorial managers. Legal advice must be sought before any agreement to broadcast. If it is decided to broadcast a clarification it must be scripted in advance and approved. If the matter is sufficiently serious to warrant it, the clarification should be recorded and not broadcast live.

Apologies

If the original broadcast is of such a nature that a formal apology is required, the broadcast must be approved by editorial management, legal advice must be sought and the apology must generally be recorded in advance of broadcast. Programme-makers need to take account of the tone and manner of the voice of the person reading the clarification or apology.

Contempt of Court

Contempt of Court is another important legal consideration. There are specific conditions that apply to the reporting of court procedures which must be observed. Sensitivity needs to be exercised in regard to filming of people going in and out of court. It is a maxim that everyone is innocent until proven guilty. But it is worth remembering this when filming people accused of crime. The image of a person being led into court may outlive, in the public's mind, the decision not to convict.

Non-disclosure of Identity of those before the Courts

There are two specific conditions under which people charged with crimes cannot be identified. The first of these is when someone's identity is an issue in a case. To give a concrete example, if someone is charged with an assault where a witness to the assault has to identify the person he or she saw carrying out the assault, television images of the person charged could prejudice the possibility of a fair trial. The second condition comes into effect when the identification of the person charged could lead to the identification of victims whose identities the law has determined should not be revealed. An obvious example is where a close relative is charged with sexual assault. The victim could be easily identified if the person charged is named or filmed in a report. Reporters need to remember that a term such as "incest" can identify a victim if the accused is identified. In some cases where a person is charged with rape, or certain other serious sexual offences, that person may not be identified prior to or during a trial and may, in certain circumstances, never be identified even if convicted.

In circumstances where there is no legal barrier to identification of an accused person it is up to the judgement of the reporters and editors as to whether a person arrested and charged with a crime should be identified in News reports. The maxim that someone is innocent until proven guilty should be foremost in the minds of reporters. This does not mean however that people charged cannot be identified. The audience must be made clearly aware that the case needs to be proven and that there cannot be an assumption of a verdict. In television News care needs to be given to the broadcasting of images of people in handcuffs as there may be an association of guilt with the wearing of handcuffs *before* a verdict is reached. Journalists must keep the public interest in the forefront of their considerations. If the crime is sufficiently serious it may be in the public interest to know the identity of the person charged. The public interest is not the same thing as the public being interested in something. Public interest equates with the public good, which may involve identifying people charged with crimes. In the majority of cases RTÉ will not identify someone until that person has been charged. In other words, someone regarded as a suspect should not be identified.

Obligation to report the Outcome of Cases

Where a person charged with a serious crime is identified in a broadcast there is a responsibility on RTÉ to report on the outcome of the case. There may be a considerable delay before the verdict is reached. People who are found innocent are entitled to have this fact reported as prominently as the original broadcast that related to them.

In addition journalists reporting from the courts need to be sensitive to the misunderstanding which may arise as a result of the point in time in a trial when a report takes place. Viewers and listeners may not see or hear a later and more comprehensive report and may take their understanding of the case from an earlier account in the procedures. Reporters should avoid commenting on the evidence of witnesses or assessing the performance of witnesses. This is particularly important where juries are involved. Journalists must avoid reporting legal arguments which take place in the absence of the jury. If a juror says that he or she learnt from a broadcast about an issue heard in his or her absence a case might have to be aborted. In these circumstances RTÉ could be held liable for the cost of a retrial. Remember if a mistake is made in this area, the judge may end up calling a representative of RTÉ into the court to defend its actions.

Of course a programme-maker should never include in a report an accused's past criminal record or information about such a person's bad character. This type of information interferes with the impartiality of a trial judge, the operation of the jury and the giving of evidence by witnesses. It is worth noting that contempt issues can arise even when material being considered for publication is in an accused's favour.

While the rules on contempt have particular resonance for programme-makers in the context of court reporting, it should be borne in mind that they apply equally to programmes touching on legal proceedings or to the people who are the subject matter of those proceedings. In short, the courts protect their operation by prohibiting publications which will prejudice the conduct of criminal or civil proceedings. Consideration of contempt issues will most obviously be relevant in a criminal trial, particularly one before a judge and jury and a programme-maker will need to be conscious of relevant facts such as that a person has been charged or is about to be charged. Even where a person is being tried in a court with no jury, such as the Special Criminal Court, contempt must still be a significant consideration in the mind of the reporter or programme-maker as the administration of justice by the courts and the vindication of an accused's rights are of high priority. Even after conviction it must be remembered that restrictions on commenting on a person found guilty are justified on the basis that sentencing should take place in an atmosphere where the public has not been encouraged to expect maximum retribution for a crime committed and where the judge is not seen to be put under unfair pressure to impose a particular sentence.

Reporting Civil Proceedings

In the context of civil proceedings such as personal injury cases or public law cases (Judicial Reviews), the dangers of breaching any strictures imposed by the courts are obviously reduced. Nonetheless dangers still exist. Programme-makers are not prohibited from dealing with a case where the legal proceedings have begun (or if it is about to go to hearing) in circumstances where one party refuses to give a comment when asked on the basis that the matter is *sub judice*. Journalists and programme-makers are not bound by the wishes of one party to a legal dispute and must judge for themselves the type of coverage to be afforded to a dispute to be resolved in the public domain of the law courts, bearing in mind the issues of contempt of court, fairness and impartiality. In circumstances such as these editorial and legal advice should be sought.

Whilst the above considerations are important programme-makers should remember that, other than where matters involve minors or family law, most court proceedings take place in open court and journalists are entitled to report on proceedings. It is important for the legal process that justice must be seen to be done. Therefore reporting on court proceedings is an important part of journalism. Equally current affairs programmes are entitled to analyse and debate the way in which the legal process operates. A balance has to be struck between the public right to know, the rights of individuals and the avoidance of interfering with the legal process.

Reporting of Sieges, Kidnappings, Stand-offs etc.

Journalists and other programme-makers need to be particularly sensitive to the impact their reporting may have on sieges, kidnappings, etc. They need to be aware that their reporting may be accessed by people directly involved in these events and RTÉ's reporting may unintentionally play a part in the unfolding of events. Consideration needs to be taken of the mental state of a person at the centre of a siege and the possibility that media attention may exacerbate an already fraught situation. In particular advice from the Garda about not revealing information which may either be of help to those involved in the events or which may interfere with the security forces handling of the events should be adhered to. However, it may be required on occasions to consider the possibility of making public information which the Garda have requested be withheld. This should not happen without reference upwards. Such a decision can only be taken with the approval of the relevant Divisional Head (usually the Managing Directors of News, Radio or Television or their designated deputies). **When the Garda ask that information be withheld it is the responsibility of the RTÉ journalist to inform his/her editorial line manager and any other colleagues reporting on the events. The information must be circulated throughout all relevant areas within RTÉ as quickly as possible.**

Co-ordination of coverage

There is a need for a high level of co-operation and communication between all programmes reporting and commenting on such events to ensure consistency of approach and a strict adherence to whatever collective decisions have been taken as to the nature of RTÉ's coverage. The News and Current Affairs Division has the primary responsibility on occasions such as these and all reportage whether within News and Current Affairs or in other programming should be co-ordinated through the News and Current Affairs Division. **The Newsdesk is the primary channel of communication and all areas of RTÉ considering coverage are required to contact the Newsdesk before proceeding further.** This applies to Online services as well as radio and television. The Newsdesk will be responsible for liaising with correspondents, reporters, news management, programmes and RTÉ Solicitors' Office. If a siege or kidnapping occurs the Newsdesk will be responsible for organising an early meeting involving all relevant sections to coordinate coverage and pool information. The Newsdesk will provide regular updates on the situation on internal email and these should be monitored by all involved in the coverage. Additional care must also be exercised at week-ends and at holiday periods when editorial management may not be so readily available. Consultation with RTÉ's Crime correspondent is always a good starting point for reporters.

Reporting of Newspaper Coverage

Particular care needs to be exercised in the reporting on radio and television of newspaper coverage of these kinds of events as there may be greater freedom to report in print in circumstances where access to newspapers may not be available to principals involved in sieges and kidnappings. RTÉ's Online services may need to take into consideration the possibility that people involved in sieges and kidnappings may have access to the internet.

Live Programmes and Audience Participation Programmes

Programmes that involve audience participation through phone calls should exercise caution to ensure that they do not unwittingly become part of a desire for publicity by people involved in sieges or stand-offs. Phone-in programmes must never put callers on air in these kinds of circumstances without editorial clearance.

Legal Advice

If there are any legal issues that arise in these situations it is imperative that the RTÉ Solicitors' Office is alerted as early as possible to enable sufficient timely consideration of the legal consequences of particular acts of reporting to take place.

Reporting in Public and Private Places

The rights of journalists are no different to the rights of all citizens. This includes the right to be in public places. By extension, therefore, reporters are entitled to report from public places. Television and radio recording may take place in public places. There may be some restrictions resulting from safety issues, but the right to report is not in doubt. When it comes to recording in private places permission is generally required. This permission may be implied. For example if a company invites you into their building to record an interview permission can be assumed. There are “public areas” which are in private ownership, such as shopping centres, where permission is likely to be required. There are other “public areas” such as railway stations, airports, etc which are in public ownership, but where permission is also likely to be required. There are also public places that are funded through taxation, where issues of particular sensitivity in regard to privacy may arise. The most obvious examples include hospitals and prisons. In these institutions overall permission is required. In addition anyone identified on a recording should give permission. Where the recording involves minors parental or guardian consent is required.

In reporting for television there is a right to film in a public place. This includes on most occasions the right to film what is visible from a public place. However there may be issues of privacy which need to be considered. For example victims of a crime may not wish their home to be identified, even if it is visible from the street. The use of zoom lens on cameras operating in public places to provide close ups of activities taking place in private raises issues. Common sense should prevail. The same considerations apply to aerial filming.

On limited occasions in investigative reporting programme-makers may consider entering private property without permission. The only justification for this can be that the public good is served by such an intrusion. This is not a step ever to be taken lightly. **Permission from RTÉ editorial management must be sought in advance of any such proposed filming.** Such a request must include evidence that all alternatives have already been considered and that the public good will really be served by such an action. Note that permission to record in a private place does not confer permission to broadcast that material. Separate consideration applies before a decision to broadcast can be taken.

Authored Programming

Broadcasting legislation does not allow RTÉ to editorialise (that is to express its own view). The only exception to this is when the topic under discussion is broadcasting policy. In effect this means that programming should not have a “point of view”. This does not however mean that on occasion a presenter cannot offer a personal viewpoint. In news programming it is very important to maintain a tone of impartiality and objectivity. In other programming there is some latitude which permits presenters to express viewpoints. Often this is done to stimulate debate, to act as devil’s advocate or to express the viewpoint of an interest not represented in a discussion. It can also be used on occasion simply to introduce humour or personal experience. Programme-makers must however ensure that what is broadcast remains fair to all interests.

Occasionally fairness and impartiality can be achieved over a number of related programmes. This allows the possibility of authored programming where, for example, guest presenters may present their views and opinions on matters of current debate. If a balancing programme is required the planning and scheduling of the latter programme needs to be planned and agreed to by the relevant Divisional Head before the transmission of the first programme. This balancing provision should not be used after a broadcast has been found to be unbalanced. In the limited number of cases where an “unbalanced” broadcast is planned, the “balancing” programme must already be intended before the first broadcast.

In determining whether a programme is balanced or not editorial judgment must be applied. There are many issues where the vast majority of people may share a viewpoint and only a small minority may hold an opposite position. There is no obligation on RTÉ to be “neutral” in all its reporting on these kinds of issues. Where there is a consensus on certain issues programmes should reflect that consensus in their reporting. There is no need to “balance” views on a 50:50 basis.

Authored programmes may present insurmountable difficulties in the run up to elections and referenda and should be avoided. The timing of a broadcast could result in an unfair advantage being given to one side in a national debate.

Access to Live Programming

The provision of live access to air for members of the public is a valuable programming-making tool as it provides an opportunity for individuals to express publicly their own opinions on matters of current public debate. Free debate contributes to democratic society and empowers individuals. Access to the airwaves also increases the sense of public ownership of RTÉ as the national public service broadcaster. Such access has a long history on radio and television and in addition has become an important characteristic of the Internet. This access should be as free and as unmediated as possible. But such access carries dangers of breaches of legal responsibilities in terms of defamation, fairness, taste & decency, contempt of court, etc. RTÉ programme-makers must do their utmost to minimise the risk associated with largely unmediated access.

It is RTÉ policy not to use any delay mechanism whereby comments can be screened before broadcast. This is based on two considerations. Firstly, such practices represent unnecessary intrusion into freedom of expression rights and, secondly, delay mechanisms are unlikely to significantly reduce the risks associated with live broadcasts.

Production staff on their first contact with members of the public must be alert to any indications that potential contributors might be unreliable or express views which should not be broadcast. Training is provided by RTÉ to assist in the identification of such people. At all times efforts should be made to establish reliable identities and contact phone numbers.

Programmes *distancing* themselves from Remarks

When something is said on air by a contributor which is regarded by the production team as likely to compromise programme standards or legal requirements it is imperative that the programme presenter distance RTÉ from the comment as quickly as possible. An instant retraction or withdrawal of a comment can be an important subsequent consideration if there is any follow up. Presenters and producers must be constantly alert to the possibility of something being said which needs to be addressed immediately. Even with an instant retraction or distancing it may be necessary to address the matter a second time at the end of the programme or in the next edition of the programme. Senior editorial and legal advice must be sought if this is being considered. Production teams need to practice procedures to cope with contributors who transgress acceptable standards. Procedures to terminate contributors and address issues of breach of obligations need to be rehearsed and agreed. Potential contributors to live programme should be advised of legal requirements and their responsibilities not to say on air anything that breaches laws or infringes requirements. This advice should be given both to individuals on phone calls and live studio audiences. A security officer should be present in studios during live transmissions of programmes where the attending audience contributes comments. Accounts of phone call and emails relayed by presenters, comment lines scrolled across screens and feedback devices on websites are all potential sources of breaches and must be carefully vetted.

No procedure will fully guarantee against abuses of the provision of live access to programming by individual members of the public. However the development of clear procedures to screen contributors and to handle difficulties when they arise

enables RTÉ to continue to provide this valuable service. The key element in minimising transgressions has to be the vigilance and attention of production staff.

Reporting of Financial Information

The publication of financial news on radio, television, print and the web is regulated by a European Community Directive known as the Market Abuse Directive (2003/6/EC). This Directive was implemented into Irish law in 2005. This directive is designed to prohibit persons from trading while in the possession of inside information and from engaging in market manipulation. Journalists who provide market information need to be aware of the potential to manipulate the market through the selective release of information which when published may influence the value of shares. In preparing any financial information for broadcast or publication on the web programme-makers should ensure the following:

Any recommendations (e.g. the buying, holding or selling of shares, expectations of profits in excess of those forecast, etc.) should be accompanied by the disclosure of the identity of the person responsible for the recommendation and their employers and, where applicable, any body or agency who commissioned the research that influenced the recommendation. Facts must be distinguished from interpretations, estimates, opinions or other non-factual information.

Journalists are obliged to avoid any personal conflict of interest (e.g. they or members of their immediate family should not be in possession of shares which might benefit from the broadcast of a particular report). **If a journalist is compromised he/she must inform their editorial manager before undertaking any broadcast.**

Further information is available from the Financial Regulator, formerly known as the Irish Financial Services Regulatory Authority (www.ifsra.ie).

Protection of Journalists' Sources

While it is accepted that there is no absolute legal basis to protect journalists' sources, the Courts have proven to be most reluctant to get involved in this issue. Public service broadcasting must uphold the principle of freedom of information. The protection of journalists' sources may be necessary to uphold that principle. It may be in the public interest for information to be made available. Sometimes that is only possible through confidential sources. Journalists have to guarantee the anonymity of their sources on occasions. As the broadcast can only contain the assertion of the journalist that he or she has been told something, it is of importance that the credibility of the information is checked. In so far as it is possible, corroborative evidence should be sought and the reliability of the source should be checked.

Journalists should seek the advice of their editorial supervisors before using unattributable sources.

The law and practice in Ireland relating to the circumstances in which the courts will permit a journalist not to disclose sources of information is not well developed. The practice to date has been to treat each instance where disclosure is requested very much on the facts of the case in question, whether the case is civil or criminal. Unlike the United Kingdom, there is no statute specifically dealing with the issue in Ireland. In the United Kingdom a court may not require a journalist to disclose the source of information contained in a publication or broadcast for which he or she is responsible nor will that journalist be guilty of contempt of court for refusing to disclose the source of information, unless disclosure is necessary in the interests of justice or national security or for the prevention of crime or disorder.

The European Court of Human Rights has confirmed the importance of preserving the anonymity of journalists' sources in its judgment in the case of *Goodwin v U.K.* (1996). The Court said:

Protection of journalistic sources is one of the basic conditions for press freedom, as is reflected in the laws and the professional codes of conduct in a number of Contracting States and is affirmed in several international instruments on journalistic freedoms. Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected. Having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, such a measure cannot be compatible with Article 10 of the Convention unless it is justified by an overriding requirement of public interest.

The circumstances in which an order for disclosure might be justifiable could include instances concerning the protection of human life, the prevention of major crime and the defence of a person accused or convicted of having committed a major crime. It should be noted that journalists' records cannot be accessed on foot of requests made under the Freedom of Information Acts.

Editing of Interviews

The process of editing interviews for both radio and television must not distort the meaning or sense of the original interview. The editing process must respect the integrity of the interviewees' contributions. Broadcasting needs programme contributors to be concise and clear. This means that frequently interviews have to be edited. It is important that this exercise in compression does not misrepresent the interview. In editing, for example, the original question posed by the reporter may be edited out and replaced by an introduction. This introduction must be faithful to the sense of the question. Equally, the editing process should not involve unfair juxtapositions of answers taken out of context. When cutaway questions are recorded after the interview to enable clean editing, the re-recorded question must respect the original question. A certain "tidying up" may be possible, but the original meaning and direction of the question should be maintained.

Reporting of Suicide in News and Current Affairs

Experts on the subject of suicide argue that the way in which suicide is portrayed in the media can impact on the number of suicides that occur. They argue that the media has an important role to play in educating the public about suicide and the wider issues involved that may lead people to feel suicidal. RTÉ deals with suicide both in its news and current affairs coverage and in drama. Amongst the points raised by experts are the following:

Reporting should not be specific in describing the method used by people taking their own lives.

Reporting should avoid the possibility of vulnerable members of the public identifying with someone who has died by suicide.

Suicide should not be romanticised or portrayed as a heroic act.

The role of the Internet in the reporting of suicide is a particular concern.

The media should report the consequences for the families and friends of those who kill themselves.

Reports dealing with suicide should consider offering information about counselling services for people who might feel suicidal.

Care in the choice of language used in reporting on suicide must be exercised. Experts believe the following phrases are unhelpful

A successful suicide attempt, an unsuccessful suicide attempt, committing suicide, suicide victim, epidemic of suicide.

They prefer

A suicide, died by suicide, a suicide attempt, take his/her life, kill oneself, a completed suicide, person at risk of suicide

Guidance on the reporting of suicide is available from www.hse.ie and www.irishhealth.com.

Privacy

RTÉ is obliged by law not to *unreasonably encroach on the privacy of an individual* when making programmes. This requirement is found in section 3 (1B) of the 1976 Broadcasting Authority (Amendment) Act. Members of the public who believe programme-makers may have encroached on their privacy are entitled to complain to the Broadcasting Complaints Commission (BCC) under section 24 (1) (c) of the Broadcasting Act 2001. There is also the possibility that RTÉ could be enjoined and or be sued for damages for a breach of privacy and for trespass.

Programme-makers must be aware that privacy is an important issue and that when a programme intrudes on someone's private life there must be very good reasons for the intrusion. A distinction may be drawn between public figures and private figures, though public figures also have a legal entitlement to respect for some aspects of their privacy. Great sensitivity must be shown at times of grief, such at funerals, accidents, etc.

The Public Interest

There may be a public interest test which on occasion may permit the encroachment on the privacy of an individual. Examples would include where an individual is engaging in illegal or anti-social activity, where there is an inconsistency between a person's publicly held position and their personal position. **If there are strong public interest reasons why consideration should be given to encroaching on people's privacy programme-makers must in the first instance seek the approval of their editorial managers.** This requirement applies to both in-house production and commissioned programmes. Approval should be sought sufficiently in advance of planned recording to permit full consideration of the request, including where relevant the legal consequences of such a proposed encroachment.

If strong public interest reasons are identified why a person's privacy should be encroached upon it may be justifiable to proceed with a report or programme. Programme-makers should note that the *public interest* is not the same as *interesting to the public*. The public interest from a journalistic perspective includes exposing crime and other anti-social activity, exposing corruption and other illegality, exposing incompetence and negligence and exposing threats to public health and safety. This is not an exhaustive list. Other areas of exposure such as hypocrisy in public figures, personal advancement at the expense of the public, etc. can also be in the public interest.

Privacy and Children

Special consideration has to be given to interviewing children. In almost all cases the consent of parents or guardians has to be obtained. Legally speaking, a child is under the care and control of its parents or guardians up to the age of 18. There is a rule of thumb that where the context of a programme is uncontroversial personal consent can be obtained from a child over the age of 16. This rule of thumb has no legal basis. Caution is therefore required when interviewing young people under the age of 18. Similar caution needs to be applied when recording in a school or classroom. Teacher's or principal's consent may be sufficient in a non-controversial context.

The following guidelines apply:

1. An individual may still have a right to privacy even if he or she is in a public place.
2. Programme-makers are required to respect the individual's right to lead his or her life protected against improper interference or unfair pressures, threats or inducements and to respect the individual's right to refuse to take part in programming.
3. RTÉ accepts that any organisation or any person, whether in private or in public life, has the right to decline an invitation to participate in a programme. Programme-makers should not encourage listeners and viewers to draw any conclusions from such a refusal. Only where it is necessary to establish the intent of a programme to be comprehensive, impartial and fair to all significant interests involved, should the programme make reference to an invitation to participate having been declined. The *Empty Chair* inference should be applied only on very limited occasions. Reasonable notice where possible must be given when asking people to participate in an interview. If for reasons of deadline proper notice cannot be given, it may be important to refer to the short notice when the non-participation of an individual or an organisation is raised.
4. Programme-makers do not need the permission of individuals if they are filmed going about their everyday business in a public place. Some locations are clearly public (for example, the street). Other areas may be public but privately owned (for example shopping centres) or owned by public bodies (for example, airports). Permission may need to be sought before recording in these latter areas. Care must be exercised when these kinds of images are used in reports in a generic manner. For example in a report about levels of private debt, using images of people shopping could be interpreted to imply irresponsible behaviour by recognisable individuals.
5. Concern about the context of the usage of the film must be taken into consideration. For example if the voiceover is dealing with the subject of child abuse it would be wrong to use images of identifiable people. There could easily be an unintended inference of wrongdoing or illegality associated with the individuals filmed which could lead to litigation against RTÉ. But this consideration is not just based on legal issues. There are other considerations that also must be taken into account. Is it fair for a broadcaster to insist on his or her right to use film when attention is drawn to the unconnected personal embarrassment of an individual who is "caught" on camera when he or she should be elsewhere or is with someone they would prefer their families or employers did not know about? The programme-maker must take into account the impact on an individual's private life which may result from the broadcast. An individual's personal embarrassment may be sufficient reason to avoid broadcasting material. Programme-makers are entitled to film or record in public places, though they should be aware that the Gardaí or other members of the Defence Forces may request that filming should not take place for security or safety reasons. It is a matter for the production team to consider very carefully before refusing to accede to such a request. Filming from a public place of a private place (such as people in their homes) raises additional considerations. Permission is required to film in a private location. Consent forms should be sought in such situations. Reasonable steps must be taken to inform members of the public present that filming is taking place. It is a matter for the professional judgment of a

production team to consider a request not to use film which depicts an individual who does not wish to be identified.

6. Programme-makers need to exercise particular care in the usage of recordings of situations which cause distress (such as accidents, disasters, crime scenes, etc.). News values may allow such material to be broadcast at the time of the event. However subsequent broadcasts may cause unnecessary suffering to victims and their families and friends. At funerals if film crews are asked not to film they should normally avoid doing so. If permission is given every effort should be made not to be obtrusive. On the very rare occasion where having taken the public interest into account it is decided to go ahead with filming against the wishes of the bereaved family close ups should be avoided and the camera kept as distant as possible from those in attendance. Where practical the advice of the appropriate editorial manager should be sought before overriding the wishes of the family. Production teams must also take into account their own safety in such circumstances.

7. An additional consideration, which must be taken into account, relates to filming in or near Garda stations, prisons, etc. Prisoners have the same entitlement to their privacy as anyone else. If a programme-maker is filming in a location where prisoners are likely to be recognised permission must be obtained from each individual prisoner. In addition this permission must be renewed if a programme-maker wishes to use archive material in a later programme. For example film from a jail recorded three years earlier could include shots of prisoners who gave their permission at the time. Three years later these same individuals may be out of prison having served their sentences and may be rehabilitated into everyday life. Images of them as prisoners from three years earlier may be detrimental to their rehabilitation. Either their identities have to be disguised or their permission renewed.

In all circumstances where the issue of privacy for prisoners arises reporters and producers should inform their editorial supervisors in advance of recording.

Consent Forms

It is standard practice to seek a person's consent to record or film. RTÉ has consent forms which should be signed before the commencement of recording. In certain news gathering circumstances it may not be possible or practical to have these forms signed. In these circumstances agreement to participate in the recording may be regarded as a form of consent. It should be noted that agreement to participate in a recording may be revoked after recording has taken place.

See section on **Surreptitious Recording, the Use of Hidden Cameras and CCTV.**

Anonymity

There are many reasons why people may only take part in programming if their identity is hidden from listeners and viewers. Examples include whistle-blowers and situations where the identification of children may be possible through their relationship with the programme participant.

Where serious allegations of wrongful behaviour are made, anonymous or off-the-record sources can be used only after careful scrutiny by editorial management. When proposing such usage programme-makers will have to convince RTÉ's editorial management that the sources are accurate, reliable and stand up to scrutiny. Editorial management must be informed of any proposal for a report or programme which is based on evidence which may be difficult to verify. Editorial management may need to carry out its own examination of the sources. If, having carried out this examination, doubts exist about the reliability of the sources used the production should not be permitted to include the allegations being made, whether through reconstructions or other means.

Where sources request anonymity, or provide only off-the-recording accounts of events, it is important that programme-makers keep accurate accounts of their interviews with these types of sources. Electronic recordings of briefings are preferable to simultaneous or contemporaneous notes. However, it is recognised that it may not always be possible to secure agreement to electronic recording of anonymous or off-the-record briefings. Even when anonymity is guaranteed sources may need to agree to a recording taking place for the purposes of editorial supervision. On very specific and limited occasions sources may need to be advised of the possibility that their identity may have to be revealed to senior editorial management. This requirement may be necessary to permit independent verification of what is claimed took place before a programme is broadcast.

In circumstances where anonymity is agreed to, programme-makers must take great care that any distortion or obscuring of participants is sufficient to hide their identities. Account may need to be taken that there is a risk that post transmission electronic readjustments outside the control of programme makers may make participants identifiable. If programme-makers give participants guarantees that they will not be identifiable in a programme, great precautions have to be taken to make sure that the commitment is honoured. The use of an actor's voice may be necessary. If an actor is used this fact must be acknowledged either in voiceover or in caption. The actual recording with the interviewee's voice should be kept for a reasonable period of time after the broadcast in case the matter of authenticity of what was said arises. This recording must be kept in a safe place where access is restricted. After a reasonable period of time this recording should be erased with the agreement of editorial management. Programme-makers should be aware that the background in an interview may identify an interviewee who wishes to remain anonymous.

Considerations need also be given to the diminished impact on both radio and television of distorted voices and, on television, participants filmed in silhouette or over the shoulder. In most circumstances these distorted or masked interviews do not sustain interest to the same extent as ordinary interviews and should therefore be used

sparingly. However the over-riding requirement of public interest may require such usage in particular circumstances.

On occasions journalists and other programme-makers may find themselves being requested to identify their sources by court orders and other bodies. Programme-makers and their editorial managers need to be aware of the consequences if they resist such requests.

See section on the **Protection of Journalists' Sources**.

Use of Reconstructions in News, Current Affairs and Factual Programming

It is important when viewing and listening to News, Current Affairs and Factual programming or promotions for such programmes that the public believes in the authenticity of what they see on the screen and hear on the radio. When reconstructions are necessary as part of the narrative of programmes they must always be identified as such. This can either be achieved by the narrator or, in the case of television, by a caption. If several reconstructions are used in a report it may be necessary to repeat the narrative warning or the caption each time as it cannot be presumed that listeners and viewers are attentive or have not joined a programme during the course of its transmission. In some programmes where an exact event is not being reconstructed, but where a general reconstruction of an activity is being depicted, the use of the term “Simulation” or a similar term may be more appropriate.

In television devices such as the use of black and white or sepia images or slow-motion may be considered as an alternative to captioning provided the audience is unlikely to be confused. In radio sound effects may similarly be considered.

News bulletins should not generally stage reconstructions of current events because of the risk of confusing the audience. An exception to this would be reconstructions based on court proceedings, tribunals etc. These may be used judiciously provide the audience is aware that they are reconstructions, and providing that such sequences are identified as ‘reconstructions’

The authenticity of reconstructions is an important issue. It is essential that events which are reconstructed are depicted accurately and in a manner which reflects what actually happens. Care must be taken not to over-dramatise through camera work, sound effects or music what actually happened.

In fly-on-the-wall documentaries it may sometimes be necessary to re-enact some action to allow for different camera angles or activities not captured by the camera. In these cases the use of the term “Reconstruction” may mislead. Viewers have some expectations that there is a degree of reconstruction in fly-on-the-wall documentaries. It is important however that programme-makers exercise their judgement in these situations and do not undermine the authenticity of these kinds of programmes.

Where the correct chronology of a series of events is relevant to depicting those events accurately, it is unacceptable in news, current affairs and factual programming to edit material in a manner that leads the audience to believe that the events happened in a different chronological order.

Where either the entire programme or major parts of a programme involve re-enactments, the nature of the programme needs to be clearly understood by the audience. The audience should be aware of the evidence on which reconstructions are based and if there has been any dramatic interpretation of events.

Programme-makers must ensure that the evidence on which reconstructions are based is reliable. The importance of the evidence of primary witnesses as opposed to

secondary witnesses cannot be over-stated. There are additional credibility issues to over-come when the evidence is based on second-hand accounts of events. As is standard journalistic practice, a second source should be sought and there should not be an over-reliance on a single source. The corroboration of evidence is an important part of programme-making in News, Current Affairs, Factual Programming and documentaries.

RTÉ should not rely on third parties authenticating sources. An independent check should be carried out by the programme-maker and that process should be open to scrutiny by RTÉ editorial management.

Contributors to Programmes

Programme-makers regularly invite commentators and experts on to programmes to give their views and opinions on the subjects being discussed. The audience in general takes on trust that in selecting contributors to programmes the production team has chosen appropriately qualified people. In many instances the audience will regard what contributors say as authoritative and definitive. It is very important therefore that programme-makers ensure that the expertise of contributors is genuine and that their qualifications justify their selection. A higher level of care must be exercised if contributors are giving advice on health or behavioural issues. All professions and most service providers have regulatory bodies and therefore it is frequently possible to determine if contributors are in good standing with their regulators.

Checking the suitability of contributors

If a programme-maker is unfamiliar with a potential contributor a check should be made to determine that person's suitability. This may involve confirming a person's job status, experience, academic achievements, publishing record, etc. This checking must be done with sensitivity and awareness of would-be contributors' rights to privacy. An internet check should be sufficient in most cases. If an internet check proves to be insufficient it may be necessary to check with employers or peers. The would-be contributor ought to be informed if such a level of checking is contemplated. If programme-makers consult contributors' peers it may be necessary to also verify the standing of those peers. If a contributor works for or is funded by an organisation with a vested interest in a subject account may need to be taken of this fact. The audience may need to be informed of the nature of the relationship between the contributor's company and the subject matter. If a person has the title "Doctor" the audience may need to be informed if the title refers to a PhD or a medical qualification. If the title refers to a PhD it may be necessary to inform the audience of the subject in which the PhD was gained.

If a programme-maker has any doubts about the qualifications of a contributor the advice of editorial management should be sought prior to any confirmation of an offer to participate in a programme.

Avoiding distortion in the selection of contributors

Programme-makers should be careful not to limit their search for contributors in a manner which excludes sections of society. In particular over-reliance on personal knowledge of contributors may lead to unintentional bias or exclusion of view points and experiences. Care must be exercised to ensure that there is no political, geographical or class bias in the selection of contributors. Every effort should be made to be as inclusive as possible of all sections of society in the selection of contributors. This includes where relevant immigrant communities and other minority groups.

Please note that all of the advice above in regard to contributors also applies to RTÉ, ie, Aertel and Mobile.

Broadcasting and Violence

Violence is regrettably a frequent occurrence in everyday life and therefore the portrayal of violence on radio and television is bound to occur. Programme-makers must exercise their judgement on the impact the portrayal of violence may have on the audience. This is an important issue both for factual programming and fictional programming. The manner in which violence occurs on both radio and television may upset the audience and lead to the belief that it encourages violent behaviour. Programme-makers must walk a fine line between accurately representing reality and not contributing to anything that encourages violence.

News reporting of Violent Events

In television news reportage violent events are frequently portrayed. 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. It may be necessary to have a more restrictive broadcast if the news is scheduled earlier in the day or if there are children's programmes scheduled around the news. Editors need to look carefully at footage of violent events and use their judgement about the suitability of the images. It may be necessary on occasion to advise viewers that an upcoming report contains images which may offend some viewers. Violence is always serious and frequently tragic. Often it includes the injury or death of individuals. Editors must take into account the feelings of the families of victims of violence. Privacy is an issue that must be taken into consideration. Violence should never be gratuitously shown or for "entertainment" purposes. It should be shown to illustrate a newsworthy event, but always with the awareness that it has the potential to upset the audience. Even in a war situation there must be sensitivity to an individual's grief and suffering. Zooming in on injuries, lingering on blood, etc. should be avoided. The viewer (and the listener when actuality sound is being used on radio) should be made aware of the consequences of the event being shown without any excessive lingering on the violent event. There is a well-recognised tradition in news reporting that the moment of death of an individual should where possible not be shown. An example of this was CCTV footage in 2005 of an unprovoked attack on a street in England where a student was knifed to death. The UK television news services transmitted some of the footage, but did not show the fatal stabbing.

It has been repeatedly argued that exposure to violent images desensitises people. There is growing concern particularly in the case of younger people that they are exposed to too many images of violence and that the impact on behaviour is detrimental. News must report accurately newsworthy events. Where these involve violence great care must be exercised as to the effects the portrayal may have. If a reporter or editor finds himself or herself with very violent images they should seek the guidance of their editorial managers.

In current affairs and documentaries where violent behaviour is part of the subject matter under observation, the same considerations apply as in news.

Drama and the depiction of Violent Events

Violence is also a concern for programme-makers working on fictional programmes. Violence is an aspect of life and can be legitimately the subject matter of dramas. But producers need to appreciate that their audience may include vulnerable people and

people upset by violent behaviour. This is particularly the case when children are involved in scenes of violence. For some of the audience the same additional concern relates to violence towards animals. Some violence in fiction is quite stylised and is less likely to cause distress. The genre of the action thriller is a well-established form of entertainment. Violence in these thrillers is often highly unrealistic and less threatening. However there are dramatic reasons for the realistic portrayal of violence and sometimes that violence may be extensive and painful to view or to listen to. Particular care must be taken when the violence shown relates to domestic life, obviously violence towards women and children, anything to do with rape or sexual violence, or if the violence is sustained or if there is suicide or attempted suicide involved. 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. There are always victims and they should not be ignored. Those victims may not themselves be directly involved in the violence, but nonetheless may have their lives blighted as a result of violent acts.

The Watershed

The watershed on television for the broadcast of programmes not suitable for children is important as it allows material to be broadcast which might otherwise not be transmitted. But the watershed on its own is not sufficient safeguard. Vulnerable people may be watching after 9pm, sometimes on their own, or in the case of children without adults being present. It is very important that accurate and tonally suitable warnings are given by Presentation before a broadcast. Consideration has to be given to broadcasting in later slots when the likelihood of children watching is diminished. But with the widespread availability of recording devices the transmission time alone is not a sufficient safeguard. In cases of extreme depiction of violence clear and precise warnings may need to be repeated at advertising breaks during a programme. In all cases where realistic violence is planned in programmes, producers must consult editorial management at the scripting stage. This is very important in soaps such as *Fair City* which broadcasts pre-watershed and to a family audience. It is far easier to address some of the issues raised in this section at the scripting stage than it is later on in the production process. In the case of television, programme acceptance viewers should be alert to problematic content in acquired programmes. Particular attention should be paid to the viewing of running series which are normally scheduled before the watershed. It may be necessary to reschedule or edit a particular episode.

RTÉ’s Presentation Department in television broadcasts on screen at the start of every programme a symbol indicating the suitability of the upcoming programme for particular audiences. In radio a presentation announcement giving similar information may be required. Programme-makers both on radio and television should advise presentation departments of the contents of programming which may require the issuing of warnings or advice to the audience.

Broadcast of Trailers including Violent Scenes

Great care must be exercised in both the production and scheduling of trailers for programmes that contain violence. Even when the trailers themselves do not contain scenes of violence but promote programming that does, they may be unsuitable for transmission when large numbers of children may be viewing. This is also an important consideration in the scheduling of advertisements for cinematic films.

All programme-makers and acceptance viewers, as well as all presentation staff, should be alert to the possibility of an event occurring which may make a transmission of a particular programme appear insensitive. For example a train crash in the news may make the transmission of a movie that features a train accident inadvisable.

Programme Standards

Generally speaking the public trusts RTÉ. RTÉ must maintain this trust by not unnecessarily offending listeners and viewers. On television the watershed of 9pm is important in maintaining this trust. On radio the audience's expectations and the number of young people likely to be listening need to be taken into consideration. Standards of taste and decency are not immutable. Broadcasters need to be sensitive to changes in public acceptance, but should be mindful of not using unacceptable language merely to enhance audience figures. In addition to the issue of language there are a great number of subjects which need to be handled with discretion. There are some topics that are always going to offend sections of the audience. But the gratuitous giving of offence should always be avoided. Often it is the manner and tone rather than the content that give offence. There may be few immutable rules in regard to taste and decency, but there can be a desire to maintain standards and to retain public confidence in RTÉ's broadcasts.

Comedy Programming

Comedy programming where there are observations on everyday life will inevitably skirt close to giving offence. Whether the topic is sex, family, religion, politics, race or ethnicity there is a risk of giving offence. Good comedy is sometimes likely to be close to offensive. The justification for this has to be found within the comedy itself. Is the comic sketch a commentary on life, are its targets suitable for the attention of the scriptwriters? How skillfully is the sketch executed? Was the particular humour expected of the programme? What time was it broadcast?

Code of Programme Standards

Members of the public who believe that a broadcast has breached standards in regard to taste and decency may complain to the Broadcasting Complaints Commission (BCC). The BCC evaluates complaints on the basis of the Broadcasting Commission of Ireland's Code of Programme Standards which takes effect in early 2007. This code covers eight types of programme material:

- a) Violence
- b) Sexual Conduct
- c) Coarse Language
- d) Portrayal of Persons and Groups in Society
- e) Factual Programming including News, Current Affairs and Documentaries
- f) Children's Programming
- g) Portrayal of Drugs, Alcohol and Solvent Abuse
- h) Imitative Behaviour

Honesty in Programming

Trust in the integrity and honesty of broadcasters is at the heart of public service broadcasting. It is essential to maintain public confidence that what is broadcast is of the highest standard possible and is always in the public interest. It is vital for the future of public service broadcasting that the audience's trust in RTÉ is not diminished in any way.

The production of programming could lead to the deception of the audience if integrity is not placed at the centre of the process. An example is the recording of a cutaway question in television. This is recorded by the reporter after an interview to permit editing. The viewer's perception is that the question seen on screen is recorded simultaneously with the interview. When cutaway questions are recorded it is essential that the question recorded actually reflects the question asked. There may be some capacity for shortening or tidying a question, but it is simply unacceptable to record a different question and edit it to transmit before an answer which reflects an interviewee's response to a different question. The same consideration applies in radio where the opening question in an interview is edited out and paraphrased in the introduction.

Other examples of the production process which are acceptable include giving the appearance of live broadcasting when in fact the programme is recorded. This is generally acceptable, but not if there is any degree of public interactivity in the programme such as competitions with timeframes that preclude recorded programming or comment lines which cannot be used as programming is not live.

The public has the right to expect that what is broadcast is accurate. An example of this is translation. It is important that when something is broadcast in a foreign language, that the translation is accurate. Another example is the editing in chronological sequence of events. The audience is entitled to expect that what is seen on screen actually happened in the sequence in which it is edited. Therefore it is vital that at the editing stage material is used in the correct sequence. Of course in drama scenes may be recorded out of sequence and subsequently edited in a different order. But in news, current affairs and documentaries the transmission order must respect the sequencing of events. If it is entirely editorially neutral it may be permissible to use material out of sequence provided it does not impact in any way on the truthfulness of what is being said. In the genre of Drama Documentaries where the format of documentaries is used, but the story line is fictitious, it is necessary to inform the audience in advance.

In "fly-on-the-wall" type documentaries there is always a degree of artificiality as the presence of the camera or the microphone introduces an additional consideration which may or may not impact on behaviour. It is important not to allow any reconstruction to take place which interferes with the integrity of the programme. It may be permissible to engage in a degree of reconstruction, but the reconstruction must always be an accurate portrayal of what actually took place.

In regard to competitions on radio and television it is vital that all competitions are run according to the rules of the competition. It is completely unacceptable to encourage the audience to participate in a competition that they cannot win or where

an entry will not get into the competition. Competitions must not close before the time stated. All relevant information about the cost of entry and the rules of the competition must be given to the audience. If the competition is on television and the information is provided by captioning the captions must be left on screen and in sufficiently large lettering to permit viewers to read them clearly. If the competition is on radio the cost, rules and regulations must not be garbled or rushed.

If for any reason the mechanism of running a competition breaks down programme-makers must inform the audience that it has not been possible to complete the competition. Under no circumstances should a contrived result be broadcast.

Obscenity

Obscenity is something that goes beyond the boundaries of what is acceptable. There can be no place for it in public service broadcasting. Obscenity is defined as *matter that depraves or corrupts*. 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. The watershed (the gradual introduction of more adult material from 2100 onwards) allows some limited comfort for material which may be at the acceptable edge of taste and decency, but it provides no comfort for obscenity.

The watershed does not apply to radio. Programme-makers must be conscious of when children are available to listen and should ensure that programming during school holidays is suitable to the concept of family listening. When issues of sensitive debate, such as pornography and child sexual abuse, are raised in daytime radio production teams need to be conscious of the impact on young listeners.

Programme-makers need to take into consideration that all RTÉ's output across radio, television and the Internet is legally free to air (though some households may opt to use a delivery system that involves charges). 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. Ultimately the determination of what is obscene may be made by either the Broadcasting Complaints Commission or by a court of law.

Sexuality and Broadcasting

Public attitudes to issues of sexuality in Ireland have changed considerably in recent decades. Subject matter which was once never discussed in public is now frequently regarded as acceptable. This change in attitude can be seen in radio phone-in programmes where there is widespread discussion of a whole range of sexual issues. However production staff must remain sensitive to the possibility that a proportion of the audience feels uncomfortable about any issue relating to sexuality being discussed openly. The timing of the broadcast, the possibility of children in the audience, the tone in which the discussion takes place, the language used in the discussion, the audience's expectation of the particular programme, all need to be carefully considered. It has to be remembered by broadcasters that for most of the audience there is a moral choice involved in sexual activity and that broadcasters should not appear to be promoting any particular behaviour. The key consideration as always has to be respect for the audience. This respect involves recognising the diversity of attitudes that exist in matters of sexuality.

The Audience

When sexual activity is being portrayed, both on radio and television, programme-makers must take into consideration the likely response of the audience. In many instances the narrative can be progressed by an indication of sexual behaviour rather than by illustrating the activity. If there is need to show sexual activity for dramatic reasons programme-makers should take account of the time of the broadcast. Many adults may accept explicit sexual activity on television when their children have gone to bed, but find it unacceptable if the children are still watching. Clearly consideration of the watershed must be taken into account. The Presentation Department in their announcements before programming should warn the audience of the sexual content upcoming.

Portrayal of Sexual Activity in News and Current Affairs

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. Sexual activity between adults and children should not be broadcast. Editors must also take into account the transmission time of the report. Clearly some reports may not be suitable for a 6pm transmission, but could be shown at 11pm.

The same concerns about promotional material involving sexual activity apply as for the depiction of violence.

Care must also be exercised in programmes that involve nudity. Some of the audience find nudity on television as offensive as sexual activity.

Offensive Language in Programmes

The use of strong language is a subject of deep concern to many people and is one of the most frequent causes of complaint from viewers and listeners. 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.

A cornerstone of our relationship with television viewers is the watershed and the understanding that prior to 9pm programming should be suitable for a family audience. Common sense should enable programme-makers to discern what constitutes offensive language. Where there is any doubt programme-makers should consult their appropriate editorial supervisors at the earliest stage possible in the production process.

On radio care should be exercised in live programmes where members of the public are contributors. When offensive language is used in live programming where the audience has a reasonable expectation that such language will not be used the presenter should distance RTE from the language and if necessary terminate the contribution.

Drama and Documentary Programming

Both on radio and television drama and documentaries authenticity may require the inclusion of language which may offend some members of the audience. The time of broadcast and the audience expectations must be taken into consideration. When such language is included presentation warnings may need to be given. On television a later broadcast slot may be necessary. The immediately post 9pm broadcast period should be regarded as a graduation period towards more adult material and due allowance must be made for the potential presence of children in the audience when arriving at decisions about the inclusion of swearing and offensive language.

Programme-makers should be aware that terms of racial abuse and abusive names relating to disabilities cause great offence, as do sexual swear words. In addition offence is often caused by the casual use of names held holy by believers. For example, the use of "Jesus Christ", or of other names held holy, as expletives in drama or entertainment programmes causes considerable distress amongst some sections of the audience.

Care in the Use of Language

Insensitive use of language can give unintentional offence. Colloquial terms such as *spastic, invalid, retarded, dumb, defective, tinkers, coloured people* will give offence and should be avoided.

In the Irish context the term *non-Catholic* should be avoided. Members of the Church of Ireland regard themselves as Catholic and may take offence 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. There must also not be an assumption that all religions in Ireland are Christian. There are Muslim, Hindu, Confucian and Jewish communities in Ireland as well as other religions that should be recognised and treated with respect.

There are other terms such as *fireman, postman, chairman, and spokesman* that emerged at a time when only men carried out these functions. However today women as well as men carry out all these functions. Where possible gender inclusive terms, such as *firefighter, postal worker, chairperson and spokesperson* should be used. An alternative, which can be considered, is the use of terms which apply when women are being referred to. In some contexts it may be appropriate to use terms such as *chairwoman* and *spokeswoman*. There can be no absolute rules in this area as the use and acceptance of language is fluid. The intention should be not to give offence and to take account of what is current practice. Women over the age of eighteen should not be referred to as *girls*, unless in the context of usage it is equally applicable to refer to men over the age of eighteen as *boys*. Careful consideration also has to be given to the use of the term *ladies*. In general the term *ladies* should only be used when the term *gentlemen* is used for men. However some older people prefer the term *ladies* to *women*. As with all language usage and acceptance is fluid.

In sport some of the language used has evolved more slowly than in popular usage and may create particular problems. Unintended, though well-meaning, patronizing references should be avoided. For example commentators do not usually refer to the physical attributes of male athletes. They should not do so either for female athletes.

Programme-makers must be sensitive to homophobic language. *Homosexuals, gays and lesbians* are the terms which the homosexual community use when describing themselves and are the terms programme-makers should use.

Surreptitious Recording, use of Hidden Cameras and CCTV

The use of surreptitious recording and filming devices can frequently involve breaches of an individual's right to privacy. When programme-makers wish to use these devices they must seek through their Divisional Heads the permission of the Director General in advance of recording. **It is mandatory to obtain the permission of the Director General before commencing recording or filming.** If permission is granted, it will be in two phases. Initially permission to record will be given. Subsequently permission to broadcast will be considered. All the above considerations apply equally to in-house production and commissioned production.

Permission will only be granted if it is in the public interest. The nature of the Public Interest is explored in the section on **Privacy**. The activity being recorded must be *illegal* or anti-social or incompetent or negligent or a threat to public health or safety. This list of considerations is not exhaustive, other considerations may apply. Before giving permission the Director General will consider if the activity under investigation cannot be recorded by means other than surreptitiously. Programme-makers must demonstrate that they have explored other means of reportage and that these do not have the editorial impact of the surreptitious recordings.

These regulations apply to the recording of telephone conversations where members of the public are unaware of the recording taking place.

Candid Camera Programmes

These concerns do not apply when filming is taking place for a *Candid Camera* type entertainment programme. At all times the permission of "victims" caught performing on camera must be obtained before transmission. In order to maintain the authenticity of what is being recorded permission has to be sought retrospectively. If permission is refused the recording should be wiped as soon as practical. *Candid camera* recording needs the prior permission of the relevant Commissioning Editor.

Door-stepping Interview Techniques

The use of *door-stepping* techniques in interviewing people is a legitimate form of broadcast journalism, though it should not be used routinely. It should be used as a last resort when all other avenues have been explored. The issues of privacy and fairness still apply. Such interviews should take place in public places. They should only happen when a request for a regular interview has been refused or it is likely that the person will take measures to avoid being interviewed. There must not be an assumption of any wrong-doing associated with the intended interviewee simply on the basis that the reporter decides that such an interview should take place. The interview should be demonstrably in the public interest.

Closed Circuit Television (CCTV) Footage

With the increased usage of Close Circuit Television in public places television producers and reporters may consider the inclusion of some CCTV footage in their programmes and reports. Before doing so some important issues need to be addressed. Are they certain of the authenticity of the material? Are there issues of privacy? Could the material be used in evidence in court procedures and if so would its broadcast lead to a possible mistrial or contempt of court? Is there a possibility of mistaken identity that could lead to defamation claims against RTÉ?

Helplines and Charity Appeals

Viewers and listeners of programmes dealing with certain sensitive subjects such as suicide, sexual violence, etc. may benefit from the provision of helplines at the end of the programme. In some cases it may be necessary to give contact details for a number of organisations which quite legitimately offer different approaches to or advice about a problem. Producers and reporters should find out what organisations are the most appropriate to help viewers and listeners and consult these organisations before the programme is transmitted. In particular, where a producer proposes providing a helpline number on air they should ensure that the organisation which operates the helpline is aware of this intention and is in a position to operate the helpline for a period after the transmission of the programme. Where producers anticipate that viewers and listeners may telephone RTÉ after a broadcast seeking advice the Switch Supervisor and the Press and Information office should be informed in advance of broadcast to enable the gathering of the appropriate information and the additional deployment of staff if necessary.

Charity Appeals

On occasion RTÉ may wish to initiate or be associated with Charity Appeals. This may arise for example in the aftermath of reporting on natural disasters or violent conflicts. **Before initiating any appeal programme-makers must consult with the relevant Divisional Head. No commitments should be made until approval has been given.** The Divisional Head should consult the Executive Board to ensure that there is no duplication of appeals or excessive numbers of appeals. RTÉ must ensure the *bona fides* of any organisation or individuals who would benefit from such an appeal. In addition RTÉ must ensure that proper arrangements are in place for the administration of the appeal and a proper auditing process is in place. RTÉ must also be fair in regard to competing charities and aid agencies.

Religious Beliefs

RTÉ, as part of its commitment to public service broadcasting, reflects in its general output on radio, television, web and print publishing the cultural and spiritual values of the people of Ireland. As many people regard their religious faiths as central to their lives it is important that the audience can find on RTÉ programmes that reflect the significance of religion in Ireland today. RTÉ will continue to broadcast religious services on both radio and television and will also provide programming dealing with religious and spiritual topics on a regular basis. The editorial principles underlying that coverage include:

1. Respect for all religious views

The fundamental right to hold religious views and to practise religion will be respected. The important place religion holds in the life of the community will be celebrated and acknowledged. RTÉ will contribute towards the audience's understanding of international issues by providing information on and analysis of the role of world religions.

2. Tolerance of the diversity of beliefs people hold

RTÉ in its output will reflect the faiths traditionally found in Ireland. RTÉ should also as appropriate cover the religions of new groups arriving in Ireland and new faiths as they emerge. RTÉ will also acknowledge in its programming people who are agnostic or atheistic.

3. Avoidance of the giving of offence to those who hold religious views

This involves sensitivity towards people's beliefs, towards religious festivals and feast days, towards icons and words associated with religious beliefs, towards liturgical practices and rituals and towards historically significant events in the histories of particular religions. The denigration of religious beliefs and the mockery of faith are not permitted. It is however, acceptable to examine critically religious beliefs, institutions and experiences in factual programmes, dramas and other genres of output.

Coverage of Religious Issues outside of Religious Programming

As religion is central to so many people's lives it is inevitably a subject that is going to receive attention in a variety of programme genres, such as documentary, drama and comedy. It is important to take into account in both scripting and production that offence may be given to people with deeply held religious views. A balance has to be struck between avoiding giving offence and freedom of expression. Gratuitous offence must at all times be avoided. **Programme-makers must be alert to these sensitivities. Where there is a possibility of offending a religious tradition, producers should advise their editorial management in good time to ensure that the matter receives full and due consideration.** If a programme is likely to offend some viewers, the transmission time may need to be considered. Some members of the public are concerned to protect younger people from religious controversy and are less likely to be offended if a programme is broadcast after the watershed on television or when younger listeners are likely to be members of the audience on radio. Advance warning may need to be given to members of the audience. An opportunity to reply may be required.

Use of Opinion Polls and *Vox Pops* in Programmes

Opinion Polls

Programme-makers may on occasion consider the inclusion of the results of opinion polls as likely to enhance their programming. Care must be taken in commissioning and reporting of opinion polls. In reporting polls the findings of the opinion poll, the sample size, the statistical confidence limits, the date of the field work and the commissioning agency should all be reported. If the agency commissioning a poll has an apparent vested interest in a topic under examination this should be made known to the audience (an example of this would be when a political party or a lobby group commissions a poll).

When the commissioning of an opinion poll is being contemplated programme-makers must inform their editorial managers. This applies to both in-house and independent productions. In addition the advice of RTÉ's Audience Research Department should be sought in the choice of the polling company, in the framing of the questions and, if needed, in the interpretation of the findings. Care must be taken in the framing and the presentation of opinion polls and their data so as to ensure that neither the questions nor the findings of an opinion poll commissioned by RTÉ imply that the programme or indeed RTÉ has a position or view on the topic under examination.

Particular care must be taken when joint polls with other organisations are planned. If for example the costs of a poll are shared with a newspaper, programme-makers must be aware that the same constraints of impartiality do not apply to newspapers as apply to RTÉ and that the highlighting of particular data in the newspapers may reflect on the impartiality of RTÉ.

Data from opinion polls should not be interpreted as “proving” something, rather as “suggesting” something. Remember despite the accuracy of the science of opinion polling the results must always be interpreted with caution. Employing a reputable market research company, understanding the significance of the fieldwork period and appreciating the importance of the overall sampling frame are critical to the successful use of data from opinion polls.

The use of any polling which is not quota-controlled in programmes (such as accounts of the results of phoning or emailing responses from the audience) must not be presented as having the same value or accuracy as professional opinion polling. The results are likely to be misleading as these kinds of polls are open to manipulation by pressure groups and because those voting are unrepresentative of the general population. The presentation of the results should always be qualified. Their value should be regarded as somewhat similar to *vox pops*.

There is a guide to opinion poll usage available at www.esomar.org.

Use of *Vox Pops* in Programmes

On occasion *vox pops* (what does the person on the street think?) may be used in reports. This is perfectly legitimate. But it is important that programme-makers are aware of the possibilities of manipulating responses in *vox pops*. With editing it is

perfectly possible to distort the response of public opinion in *vox pops*. There must never be a claim of empirical accuracy in relation to *vox pops*. They must be presented for what they are, an unscientific random “slice of life” response to questions from ordinary people in the street. Programme-makers must ensure that *vox pops* are not used to carry one side of an argument only, when it is obvious that there are differing opinions.

Studio Audiences

Live audiences are an important part of some studio and outside broadcast programmes. Members of the public who attend should be treated with courtesy and consideration. In so far as it is practical, the public should not have to spend excessive time waiting for transmission or recording to take place. Where delays are likely, access to refreshments should be arranged.

As with *vox pops* there should not be the assumption in programmes that studio audiences are representative samples of the public at large. Their opinion reflects the views of the audience in the studio, not the wider public at large. Particular care must be exercised to avoid generalising from a studio audience to the public at large. Calling for a show of hands from a studio audience and then implying that the view of the audience is representative of wider public opinion is misleading and potentially distorting.

All studio audiences must have fire and safety regulations made clear to them. Except in programmes specifically made for children and young people there is a requirement that all members of the studio audience should be over 18. When children under the age of 18 are required there must be adequate chaperoning arrangements put in place.

Publicity and Information

RTÉ competes with other broadcasting organisations for attention. Every viewer and listener has a wide range of channels and programmes to choose from. Pre-transmission publicity can considerably enhance the audience size. All production teams, whether working on in-house or commissioned programmes, should be committed to assisting RTÉ's publicists in the task of drawing attention to up-coming programmes. In addition RTÉ's Information Office should be supplied with all relevant details about upcoming programmes. This should include contact details of programme contributors and products or services featured in programmes where relevant. Information should also be supplied to the relevant section of RTÉ's Online Service and to Aertel.

Equally important is the on-air promotion of programming. Programme-makers must assist those working in Promotions in providing material for trailers and promos. Developing and encouraging the public's appreciation of RTÉ is important.

Children and Broadcasting

The best service RTÉ can provide for children and young people is to make and broadcast programming that reflects their lives, concerns and interests. It follows, therefore, that children will frequently be involved in programmes in a number of ways. They are listeners to and viewers of programmes, they participate in programmes (mostly in programmes made for children, but also in factual and news programmes), they are portrayed in programmes, and they are sometimes employed to work on programmes.

The involvement of children with RTÉ television and radio requires special attention so as to provide for their protection and safety. When RTÉ engages with children, RTÉ must, as broadcasters, treat their physical, mental and emotional health as being of paramount importance. This section on children and Broadcasting cannot be a complete guide to good practice in every situation, nor necessarily the last word on the matters to which they refer. Context, personalities, attitudes will all change in different circumstances. What has meaning in a particular situation is the common sense interpretation of a well-informed programme-maker who has the child's best interests at heart.

For the purpose of these guidelines, unless where otherwise stated, a 'child' should be regarded as a person aged 15 years or under. A 'young person' is someone who is aged 16 or 17 years. Note that the Broadcasting Commission of Ireland regards all members of the audience under 18 as children, though there is an acknowledgement that older children are more sophisticated in their understanding and usage of the media.

The Watershed

Material unsuitable for children must not be broadcast at times when large numbers of children may be expected to be watching or listening. However, RTÉ accepts that even though some children are always likely to be in the audience, there should be a wide range of programmes appropriate for adults. The necessary compromise is a 'family viewing' policy on television 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. On television the 7-9pm period is viewed as family viewing, i.e. parents and children are likely to be watching together and parents may be required to exercise some control over their children's viewing and may be required to explain or contextualise some matters on screen to their children. In the period post 9pm (the Watershed) there is a progressive expectation that there may be programming unsuitable for children broadcast on television. Programmes which run through the watershed should be treated as pre-watershed. Programmes which are definitely unsuitable for children should be scheduled well after the beginning of the watershed.

The concept of the watershed does not apply to radio. On radio the likely composition of the audience and the audience's expectations must be taken into account when material of a more adult nature is broadcast. **Particular care must be taken during day time when children are on school holidays.**

Portrayal of Dangerous, Antisocial Behaviour or Suicide

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.

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.

No film or programme which includes scenes of suicide, or preparations for suicide capable of easy imitation, should be scheduled to start during family viewing time. (See section on **Suicide**).

Programme trailers and programme promotional clips must themselves comply with Family Viewing Policy. If it is decided to promote an 'adult' programme before 9pm, the trailer must be suitable for family viewing.

Presentation Warnings

A warning or appropriate information should precede any programme/news report that contains material likely to be viewed by children and which some younger viewers might find disturbing. This does not diminish the responsibility for sensitive scheduling of programmes to reduce the risk of offence to a minimum. RTÉ Television provides a logo at the beginning of every programme advising on the suitability of the upcoming programme for children. RTÉ Radio will make an on-air announcement if upcoming programming is unsuitable for children.

Children as Participants in Programmes

Programme-makers have a duty of care towards children involved in productions, whether as performers or audience members. The health, safety and welfare of the child must be the most important consideration when a child is in RTÉ's care. The child must not be asked to participate in any item that could in *any way* potentially damage the child physically or mentally. The participation of the child can only proceed with the prior written consent of a parent or guardian. If participation conflicts with the child's school attendance, then the prior consent of the child's teacher or the school principal must be obtained in writing.

Where it is not possible for a child's parent or guardian to accompany the child, RTÉ will appoint a chaperone who will be a suitable and competent person by virtue of their experience of such work, and RTÉ's knowledge of their abilities and character. The chaperone will supervise the welfare and discipline of the child either on the RTÉ complex or on location. The chaperone will be an additional member of the normal production team. Directors, presenters, researchers, etc. cannot do this work in addition to their own work. The chaperone will provide the child with food and drink. Children should be offered nutritious and balanced meals. The chaperone must ensure that safe travel arrangements are in place for the child. The child must always be accompanied from home to RTÉ (or the location) and back home, either by a parent/guardian or by the chaperone. At no time should a child be left waiting or

unattended. This procedure must be observed at all times. **Sending one or a number of children by taxi, unaccompanied, is not permitted.**

The offering of a financial inducement to participate in a programme is forbidden. A child's contribution should be recognised by way of some suitable gift or gifts. If a producer feels, in exceptional circumstances, that a fee is warranted, they should seek clearance from the appropriate Commissioning Editor. The fee should be paid to the parents or guardian of the child or to the establishment which coaches and provides the services of the child for the programme.

In the event of an accident or injury to a child contributing to a programme or attending a recording, RTÉ policies and procedures for dealing with and reporting accidents should be followed. All accidents or injuries to children should be reported in writing to the appropriate Commissioning Editor, setting out clearly the facts with particular reference to the supervision being exercised at the relevant time.

Children, parents and guardians are entitled to expect that children will be at all times treated with care and respect while involved in RTÉ productions. RTÉ's behaviour towards children must measure up to the standards of childcare professionals.

Staff must at all times be sensitive to a child's sensibilities. A child's privacy must be respected at all times in dressing rooms, bathrooms, etc. Programme-makers must avoid crude language or the making of suggestive comments (even in fun) that could embarrass or be misinterpreted by a child. As far as is practical any programme-maker should try and avoid being alone with a child. Looking after children in groups is the preferred option.

Children and Young Persons in Factual Programmes, Current Affairs Programmes and News

Producers and journalists should consider carefully the impact of the programme/news item on the child involved in it – both in the way it is made and any possible impact it may have when broadcast. This applies whether or not they have secured parental consent and/or the child's consent. Children are often eager to help programme-makers, but may lack judgement about their own immediate or long-term interests. Programme-makers are advised to consult professionals and experts when dealing with children and sensitive subjects, and to put in place support systems to protect children before, during and after the programme process.

When dealing with dangerous or illegal activity among children such as drug-taking or prostitution, it is often advisable for programme teams to be accompanied by an independent agency throughout their contact with the children.

In the course of research, programme-makers may come across situations where they believe the welfare of a child is being endangered by others. In such cases, the child's interests and safety must take priority and programme-makers should, in consultation with the Managing Directors of News, Television or Radio, consider reporting what they have found to the relevant authority.

Children and the Issue of Consent

The consent of parents or legal guardians should be sought before interviewing children or otherwise involving them in programmes. In a situation where parents are separated consent of both parents must be obtained. It is only in exceptional circumstances that interviewing can take place without this consent. The younger, or more vulnerable the child, and the more sensitive the subject matter, the more likely it is that consent will be essential. On occasion where parental or guardian consent may not be possible it is likely that the identity of the interviewee may need to be obscured. No financial inducements should be offered to parents or guardians to induce them to give consent, although, the legitimate payment of expenses is acceptable.

A child's own consent should always be sought about being interviewed. The content of the interview and the context should be explained clearly to the child in a language and terms they can understand. A child's refusal to take part should not be overridden. A child's ability to give consent depends on the stage of development and degree of understanding the child displays, as well as the child's age. Programme-makers may wish to consult an appropriate professional or an adult who knows the child, to help them make such judgements.

Where parental consent has been refused, or cannot be obtained, the advice of the Managing Directors of News, Television or Radio must be sought before taking any decision to go ahead. This can normally be justified only if the item is of sufficient public importance and the child's appearance is absolutely necessary.

The Portrayal and Interviewing of Children

Interviews with children need particular care. Children can be easily led in questioning and are often open to suggestion. Interviewers should be careful about prompting children and should allow them to speak for themselves. Where young people have been involved in criminal or anti-social behaviour, programme-makers should be aware they sometimes exaggerate for affect. Criminal or anti-social behaviour should not go unchallenged. On extremely sensitive subjects, such as abuse or family breakdown, programme-makers should consider consulting a professional with experience of interviewing and counselling children about the best way of approaching interviews and minimising distress.

When factual programmes or news reports feature children involved in illegal or anti-social activity, identification may raise difficult ethical issues. There may be a public interest in identifying the children, but the longer-term interests of the child may argue for anonymity. Parental consent may not be a sufficient reason to identify a child, if the child's long-term future would be better served by anonymity. Programme-makers should refer such matters to their editorial managers.

When recording anti-social or criminal practices carried out by children with the intention of highlighting the *practice* rather than *individuals*, the general rule is that individual children will not be identified.

Interviewing children requires care. Children should not be questioned to elicit views of private family matters, or matters likely to be beyond their judgement, or matters more appropriate to adult discussion. Great care should be exercised in interviewing a

child in reference to any tragic or harrowing experience, such as a bomb explosion, a tragedy at sea, a car crash, a fire, a domestic tragedy and the like.

Special care should be exercised in the case of programmes likely to attract a young audience in regard to smoking, the taking of alcohol and the use of drugs, so as not to glamorise or promote the acceptability of these habits.

Reporting of Children before the Courts

As an absolute rule, RTÉ should not publish in any programme or news bulletin, the name, address, school attended, picture, or other information which may lead to the identification of any child or young person (under 18 years) appearing in court in a criminal case whether that child is accused of a crime, is a witness in the case or is the victim of the crime or in a family law related case, except where any judge may have requested the media to do so.

In dealing with sexual offences concerning children, news reports or other programmes should be particularly careful not to identify living children who are involved in Garda inquiries or court proceedings, whether as victims, witnesses or defendants. Care must also 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. In any report of a case involving a sexual offence against a child, care must be taken to avoid anything that might contribute directly or indirectly to the identification of the child, including naming the accused or indeed, on occasion, the person convicted. In particular, where an accused adult has been identified, the word 'incest' must not be used, as this would risk identifying the child.

Children in Care

The Child Care Act 1991 states that no child who has been or is the subject of a care order can be identified. There are exceptional circumstances whereby the provision can be waived by a judge. Legal advice should be sought in these circumstances before any broadcast.

Children in Studio Audiences

Children should normally only be part of a studio audience for a children's programme and the recording of such programmes should be completed no later than 9pm. Children attending as part of such an audience should be accompanied to the studio by a parent, guardian, teacher or other responsible adult. Tickets for audiences attending such shows should preferably be distributed through schools, youth clubs and the like, or at the request of parents or guardians. Tickets should not normally be issued on a casual basis to children.

No fee should be paid to children for attending as members of a studio audience. Small tokens such as programme merchandise (t-shirts, mugs, pens, etc.) may be given to audience members. In the case of children from a school or youth club or the like, being invited as a studio audience or to participate in the programme, the producer may make reasonable transport arrangements for such participants.

Children should not normally be admitted into the audience for programmes that are not wholly made for children e.g. entertainment shows, talk shows, or other shows being recorded or being broadcast post 9pm. Tickets for such audiences should clearly

indicate that children would not be admitted. Exceptions to these rules need the approval of the Managing Director of Television. No child in arms or very young children should be admitted into a studio audience unless for some particular purpose approved of by the Director of Television or the Director of Radio.

Children Employed as Actors/Performers

The following conditions must be observed when a child is engaged as an actor/performer in RTÉ: -

1. Children Under 7 Years of Age

A child under 7 years of age may not be present at the place of employment –

- For more than 5 hours a day.
- Before 09.30 or after 16.30 except in special circumstances.
- May not take part in a performance or rehearsal on any day for a continuous period of more than 30 minutes without an interval for rest, for a total period of more than 2 hours.

2. Children between the Ages of 7 & 13

A child between 7 and 13 years may not be present at the place of employment –

- For more than 7 ½ hours a day.
- Before 09.30 or after 16.30 except in special circumstances.
- May not take part in a performance or rehearsal on any day for a continuous period of more than 45 minutes without an interval for a rest, for a total period of more than 3 hours.

3. Children Over 13 Years of Age

A child over 13 years shall not be present at the place of employment –

- For more than 8 hours a day, or
- Before 0900 or after 1900 except in special circumstances.
- May not take part in a performance or rehearsal on any day for a continuous period of more than 1 hour without an interval for rest, for a total period of more than 4 hours.

Night Work

A child may take part in a performance, after the latest relevant hour permitted, only if it is essential for such a performance to take place after that hour.

Licensing Requirements for Children employed in Broadcasting Activities

1. The Protection of Young Persons (Employment) Act 1996 brought in additional requirements with regard to children in broadcasting. Under section 3(2), of the Act, broadcasters must apply to the Department of Enterprise, Trade and Employment for a licence to employ a child in cultural, artistic, sports or advertising activities. Such employment should not interfere with the child's attendance at school.
2. Application for the licence should be made at least 21 days before the employment commences.

3. Each child must have his/her own individual licence.
4. The application for each licence must contain the following:
 - Name, address and date of birth of a child;
 - Name, address and contact telephone number of the child's parent or guardian;
 - Nature of employment, e.g., television broadcast;
 - Details of project (script, if available) on which the child is to be employed;
 - Reasons which justify the employment of a child of the age concerned;
 - Duration of employment;
 - Amount of Night Work if any;
 - Address of principal work location (if different from employer's address);
 - The amount to be earned by the child.
 - Alternative teaching arrangements (where necessary);
 - Copy of any contract or draft contract relating to the child's employment.
5. On receipt of the application, the Department decides whether or not to grant the licence, in order to assist in determining whether to grant the licence or not the Department may make such enquiries as are considered necessary to enable such a decision to be reached.
6. After the employment is completed the number of hours the child was present at the place of performance and rehearsal must be forwarded to the Department of Enterprise, Trade and Employment. Young persons (over 16 and under 18) may not work after 22.00 and before 06.00 without authorisation by licence, under S.7(1) of the Act.

Conditions which may apply to such a licence; Under Section 3(2):

1. Children under 7 years of age

- A child under 7 years of age may not be present at the place of employment;
- for more than 5 hours a day,
 - before 09.30 or after 16.30 except in special circumstances,
 - may not be present at a place of employment over a total period 250 hours in a 12 month period

- may not rehearse or perform for longer than 2 hours in any one day and must be given an interval for rest after each 30 minutes of rehearsal or performance.

2. Children over 7 and under 13 years of age

A child between 7 and 13 years may not be present at a place of employment

- for more than 7½ hours a day, or
- before 09.00 or after 17.00 except in special circumstances.
- May not be present at the place of employment for more than 700 hours in any 12 month period.
- May not rehearse or perform for longer than 3 hours in any one day and must be given an interval for rest after each 45 minutes of rehearsal or performance.

3. Children over 13 years of age

A child over 13 years shall not be present at the place of employment

- for more than 8 hours a day, or
- before 09.00 or after 19.00 except in special circumstances
- May not be present at the place of employment for more than 900 hours in any 12 month period.
- May not rehearse or perform for longer than 4 hours in any one day and must be given an interval for rest after each hour of rehearsal or performance.

4. Night Work

A child may take part in a performance after the latest relevant hour permitted only if it is essential for such a performance to take place after that hour.

5. Meal and Rest Breaks

A child must have a break for a meal of at least 1 hour and a separate 15 minute rest break for each period of 3 ½ hours at the place of employment.

A child may not take place in performance or rehearsals on more than 5 days in any 7 day period (or 6 days in any 7 day period provided such performances or rehearsals do not take place on more than 20 days in any 28 day period).

6. Chaperones

A suitably qualified chaperone must be in charge of the child at all times while the child is present at the place of employment except while the child is in the charge of a parent or guardian.

7. Education

Where the hours of work of the child involves an absence from school of more than one week, appropriate alternative teaching arrangements must be made.

Conditions which may apply to a licence under Section 7(1)

A licence under Section 7(1) allows a young person of 16 or 17 years of age to take part in a performance after 22.00 and before 06.00 only if it is essential for the performance to take place within those hours and on the following conditions;

- The young person must not take part in any other performance or rehearsal until 12 hours have elapsed from the end of his/her part in the performance.
- The young person must be allowed compensatory rest time within the following 7 days.

Alcohol Consumption and Broadcasting

It is widely recognised that there is a serious problem in Irish society in regard to the excessive consumption of alcohol. Its detrimental impact in terms of health, the economy, violence and anti-social behaviour is not disputed. RTÉ must play its part in contributing towards a responsible attitude to alcohol. Measures are in place to ensure that alcohol advertising on RTÉ is controlled. However programme-makers have a responsibility in this regard also. The glamorisation of alcohol and the suggestion that excessive drinking is the norm should be avoided. Presenters must take care to ensure that they do not encourage a view amongst the audience that excessive drinking does not have consequences, either in the short or long term. Particular care must be exercised when the target audience is young people. For example there should not be the suggestion of any necessary correlation between celebratory activity and alcohol consumption.

Alcohol and Sports Events

When reporting on sports events sponsored by alcohol brands there should not be excessive mention of the sponsor's name. If the title of the event includes the sponsor's name it is not necessary to refer to this every time the event is mentioned. An occasional use of the full title is sufficient

Irish Language Programming

RTÉ has been broadcasting on radio in Irish since the beginning of Raidió Éireann in 1926 and on television since 1961 when Teilifís Éireann started broadcasting. In recent decades Raidió na Gaeltachta and Teilifís na Gaeilge (now TG4) were founded to provide comprehensive Irish language programming. The Irish language continues to be used on RTÉ's other channels, RTÉ Radio 1, RTÉ 2FM, RTÉ Lyric fm, RTÉ One Television and RTÉ Two Television. It is RTÉ's policy to reflect the bi-lingual nature of Irish society and to encourage the use of the Irish language. Broadcasters are encouraged to use some Irish in an informal and comfortable way as part of everyday broadcasting. On official occasions, such as State visits, commemorations, inaugurations, etc. the Irish language is to be used in a prominent manner.

Legal Obligations

It should be noted that RTÉ has particular statutory obligations in regard to the Irish language. The 1960 Broadcasting Authority Act states that RTÉ

shall bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture and shall endeavour to promote the attainment of those aims.

The Broadcasting Authority (Amendment) Act 1976 stated that RTÉ

Ensure that the programmes reflect the varied elements which make up the culture of the people of the whole island of Ireland, and have special regard for the elements which distinguish that culture and in particular for the Irish language.

The Broadcasting Act 2001 states that RTÉ should

Provide a comprehensive range of programmes in the Irish and English languages that reflect the cultural diversity of the whole island of Ireland

In addition to the above it should be noted that The Official Languages Act 2003 obliges public bodies to facilitate members of the public who wish to conduct their business through either English or Irish. This means that members of the public who wish to conduct their business with RTÉ *as Gaeilge* must be facilitated.

It is RTÉ policy to facilitate and promote in all its services the use of the Irish language. Programme-makers who wish to improve their language skills should contact their managers as various schemes and incentives are available.

Respect for Diversity

RTÉ must reflect in its programming the diversity of culture, religion, political views, physical ability and disability, age, class, race and ethnicity and sexual orientation that exists in Ireland today. RTÉ must present an inclusive image of Ireland and not exclude marginalised groups. As Ireland evolves into a more multicultural and ethnically diverse nation it is important that RTÉ reflects these changes. But equally programme-makers must be sensitive to areas of public opinion that are absent from public discourse because of the reticence of some people to express their views. RTÉ has a Diversity Policy document which refers to both programming and working in RTÉ. It states

The aim of the diversity policy is to create a work environment free of discrimination, particularly on grounds of gender, marital status, family status, sexual orientation, religious belief, age, disability, race, class or membership of the traveller community.

As a public service broadcaster RTÉ is committed to serve all sections of society and will reflect the diversity of society in our programming and related activities, in attitudes portrayed on air and in our publications.

Comedy programmes on both radio and television frequently make use of stereotypes (the character of the Spanish waiter in *Fawlty Towers* is an example). Programme-makers need to exercise their judgement in this matter. Many stereotypes are not funny for the stereotyped. (Think of the reaction in Ireland to the stereotyping evident in *Irish* jokes in the United Kingdom.) Stereotyping based on sexuality, ethnicity, religion, etc. can easily cause offence and can sometimes contribute to the perception of a minority group in the wider community. The inclusion of a stereotype character in a comedy sketch has to be justified by reference to the message of the sketch. Does the sketch confront stereotypes or reinforce them? Is there a purpose to the sketch behind the superficial script?

Broadcasting to the Nation and the Wider World

As befits a national public service broadcaster RTÉ's remit is to serve all the people of Ireland (and increasingly those abroad who wish to be informed about Ireland). Presenters and reporters must always be conscious of the fact that RTÉ's programmes are received in every corner of the country. Therefore there should not be an assumption that if the weather is bad in the nation's capital it is also bad everywhere else. Equally presenters need to bear in mind that there is more than one Blackrock in Ireland, more than one O'Connell Street. Another assumption to be avoided is that all the audience is familiar with districts of Dublin, or indeed that the audience's knowledge of geography is sufficient to know where to find Ballyhaunis or Emo. Care must be taken in the accurate pronunciation of place names. Another easy assumption to make is that the audience is homogeneous. This was never the case and is even less so now. Editorial content in programming should reflect the broad range of topics that concerns the whole island.

It is very important for the future well-being of RTÉ that the public feels a sense of *ownership* of the national public service broadcaster. Programming should encourage a sense of inclusion. This means that the viewing and listening audiences find on RTÉ issues and values which reflect everyday life on the whole island. It also means that the range of voices heard on the airwaves reflects that diversity to the full extent.

The Wider World

This responsibility extends beyond the shores of Ireland. RTÉ's programming must also inform the audience about the values and concerns of the wider world. Understanding and appreciating the cultures and values of other countries and societies is part of RTÉ's public service brief. Obviously this task starts with our nearest neighbours, the United Kingdom, but it must extend to the rest of Europe and the world beyond Europe. The interests and needs of the under-developed world must be included. RTÉ's programming must provide space for the local, the national and the international.

With growing access to RTÉ through satellite and the internet RTÉ can provide Irish people living abroad with an increasingly large part of its services. For many Irish people abroad RTÉ can be an important link

Recognising Marginalised Groups

Public Service broadcasting is obliged in its charter to serve all the community. This includes marginalised groups such as travellers, immigrants, people with disabilities, etc. These groups should be given a voice on RTÉ. Programme-makers should include in their programmes members of marginalised groups rather than relying on experts who may act as spokespeople for these groups. Programme-makers should on occasion include representatives of marginalised groups in discussions on issues which are mainstream and not confine their participation to issues usually associated with those who are marginalised.

Programme-makers have a responsibility to portray accurately society. This responsibility extends to an inclusive view which includes people with disabilities. In addition, care must be exercised to ensure that marginalised groups are not always presented in negative circumstances.

All of RTÉ's recording facilities in the Radio Centre and the Television Studios are accessible for wheelchair users. Programme-makers should actively encourage the participation of people with disabilities in programming.

Freedom of Information Acts (FOI)

Virtually all Government bodies and agencies and most public bodies are subject to the Freedom of Information Act 1997 and the Freedom of Information (Amendment) Act 2003. These Acts do not apply to private bodies, commercial companies and most semi-state companies. This legislation was introduced to bring greater transparency and accountability into public life. RTÉ programme-makers are encouraged to use the Freedom of Information processes as part of their journalistic research. Under FOI members of the public are entitled to access a whole range of records created since April 1998. All bodies that come under FOI must have designated FOI officers. These officers generally speaking have four weeks to respond to requests for records. All public bodies are obliged to have Freedom of Information Reference Books which outline what records are accessible and means of access. There is also an appeals process if requests are refused. Most public bodies display prominently on their websites their FOI information. Records may be electronic as well as hardcopy. There are a number of exemptions whereby records may be withheld which apply to all bodies who come under FOI. Further information on the whole process and the exemptions is available on the Information Commissioner's website (www.oic.gov.ie).

When RTÉ was brought under the Freedom of Information Act in 2000 the Government introduced a Statutory Instrument (S.I. 115/2000) which provided RTÉ with additional exemptions, designed to protect RTÉ's journalism and programme-making functions. RTÉ and TG4 are the only sections of the media which are subject to FOI. The two broadcasters are also unique in being both users of the FOI processes and subject to the FOI.

RTÉ Functions Included and Excluded

Schedule 2 of the Statutory Instrument lists the functions of RTÉ which are subject to FOI. They are Management, Administration, Finance, Commercial, Communications and the Making of Contracts. Schedule 3 lists the functions of RTÉ which are exempt from FOI. These are:

1. The gathering and recording in any form of news, information, data, opinions, on or off the record quotes or views from any person or body or source, for journalistic or programme content purposes, whether or not a programme is (a) produced on the basis of such information or (b) is broadcast.
2. The identification of any potential or actual source of information or material for the purpose of programme origination, whether or not such a programme is produced or broadcast and without prejudice to the generality of the foregoing shall include the consideration of programme proposal submissions from internal and external sources.
3. The editing and storing of any material recorded by any means, whether written, aural, visual or otherwise, for the purpose of programme origination, whether or not such a programme is produced or broadcast.
4. The process of making editorial decisions concerning programme or programme schedule content which, without prejudice to the generality of the foregoing, shall

include preliminary programme proposal reviews, programme planning and final pre-transmission editorial decisions.

5. The process of post-transmission internal review and analysis of any programme or schedule of programmes broadcast.

The Explanatory Note at the end of the Statutory Instrument (which is not a legal interpretation) states that RTÉ is only subject to FOI regulations for its *non-programme related functions*. On the basis of this interpretation programme-makers may be confident that their sources, their research and their editorial processes will not be accessed by people using the FOI process.

RTÉ's **Freedom of Information Reference Book** is available on the RTÉ website (www.rte.ie/about/foi).

Data Protection Act

RTÉ is a registered user under the Data Protection Act 1988. This Act places a responsibility on RTÉ in regard to the collection and usage of **personal** data stored electronically or in hard copy form. Personal data means data relating to a living individual who can be identified either from the data, or from the data in conjunction with other information. For programme-makers this means personal information about a third party gathered for the purposes of making programmes may be accessed by the individual whom the data refers to. It is important to note that the Data Protection Act only provides access to information to the person to whom the information relates. It cannot be used by anyone to access personal information about anyone other than themselves.

The Act obliges, amongst other considerations that personal data should only be kept for specific purposes, that the data must not be used or disclosed in any manner incompatible with the specified purposes and that personal data must not be kept for longer than necessary. RTÉ has an obligation to keep the data accurate and up-to-date and to keep it safe and secure. While it is clear that the Data Protection Act is not likely to impinge on programme making to any great extent, production staff should be aware of its existence, the possibility that the Act may be invoked and the responsibilities under the Act for people who store data.

The European Union Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data is also relevant. Initially Data Protection only extended to electronically stored information but the EU Directive extended data protection obligations to data which is held on manual filing systems and introduced more detailed conditions for the processing of sensitive personal data and introduced new requirements specifying the information that must be given to data subjects. Individuals must have access to the personal information about them held by an organisation and be able to correct, amend or delete that information where it is inaccurate. If requested RTÉ must provide the following information:

- The identity of the person in RTÉ responsible for the administration of the Data Protection Act (known as the Data Controller)
- The purpose of the processing for which the data is intended
- Any further information that is necessary to guarantee fair processing such as the recipients or categories of recipients of the data and the existence of the right to access to and the right to rectify the data concerning him or her if the information held is inaccurate.

Special attention should be given to personal data that deals with racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership and health. Where feasible, consent of the subject to the processing of this data should be sought. RTÉ may on occasion be involved in commercial activities where personal information is accumulated (examples would include credit card details, mobile phone numbers, etc.). Great care must be exercised to ensure that such information is not used for purposes other than for which it has been compiled. Further advice is available from the RTÉ Solicitors and from RTÉ's Data Controller (the Head of Public Affairs Policy).

RTÉ and Political Activities

Certain categories of RTÉ staff are not permitted to participate in political activities. This may seem to run counter to an individual's constitutional rights. However if an individual wishes to assert his or her rights to membership of a political party or to engage in political activity RTÉ reserves the right to change that individual's category of employment to one where participation in politics does not compromise RTÉ's impartiality. This constraint is not imposed to limit individual's freedom, but rather to guarantee to the listening and viewing public that RTÉ is impartial and objective. There is clearly a balance to be maintained between individual rights and collective responsibility. The restricted categories who may not participate in political activity include:

- The Director-General and other members of the Executive Board, RTÉ Group Secretary, Executive Director Performing Groups, Executive Director RTÉ Publishing, Executive Director RTÉ Transmission Network Ltd., Head of Public Affairs Policy,
- In the Television and Radio Programmes Divisions members of the Radio and Television Boards, members of the Radio 1 Editorial Management Group, members of the Raidió na Gaeltachta Editorial Management Group, Head of RTÉ Lyric fm, commissioning editors, assistant commissioning editors, presenters, reporters, producers, researchers, directors, assistant producers, broadcasting co-coordinators and broadcasting assistants.
- In the News and Current Affairs Division members of the Editorial Management Group, all journalistic staff, both those who appear before the public and those involved in the production of news.
- In Online and Publishing members of the Management Group, all journalists.

The definition of political activity includes activity which does not involve a public dimension (for example, working as a backroom person in a political party). Minor non-party political activity such as participation in residents' groups, environment lobby groups, etc. is permissible. But caution should be exercised not to compromise RTÉ in any way.

People who work in restricted categories must notify the Director-General through their Divisional Heads if they have any intention of standing as candidates in European Parliament, Dáil Éireann, Seanad Éireann or local elections. It is incompatible with RTÉ's statutory obligations of impartiality to allow people standing as candidates to work for RTÉ in a position of editorial responsibility. Those wishing to stand as candidates have to seek leave of absence from their positions. If they wish to return to work after the elections RTÉ cannot guarantee that they will be able to return to their previous positions. People who work in restricted categories who wish to return to RTÉ after unsuccessfully contesting elections can expect a moratorium before they can return to their previous activities. Restricted categories apply to all broadcasters irrespective of contractual status. Programme-makers working for independent companies on RTÉ commissioned programmes may need to be restricted also. Decisions will be taken on a case-by-case basis.

Staff who work in non-restricted categories must exercise their discretion in their political activity in order to avoid any conflicts with RTÉ's statutory obligations. It is a condition of service that no individual should do anything which would bring RTÉ into disrepute.

Elections and Referenda Campaigns

Much of modern electioneering and campaigning takes place on the airwaves and RTÉ plays a central role in these processes. Research has shown that the public relies on radio and television to provide many of the facts which influence decision-making at election times. Fairness and impartiality, as well as providing opportunities for political debate, are essential parts of RTÉ's role at election time. The performance of presenters and reporters comes under intense scrutiny. RTÉ must be, and be seen to be, completely impartial in its handling of political debate.

The monitoring of output across radio and television is an important part of RTÉ's procedures at election and referenda times. RTÉ puts in place for all General Elections, European Elections, Presidential Elections and Referenda a Steering Group which represents all output areas. This group is chaired by the Director General and includes senior management from News and Current Affairs, Radio Programmes, Television Programmes and RTÉ Online. This group co-ordinates RTÉ's coverage of the campaign and ensures that RTÉ's overall coverage is fair to all parties. Balance and fairness have to be maintained both within individual programme strands and across all output. A formal monitoring of output is put in place in the run up to elections to provide accurate information about election coverage on all RTÉ channels and to ensure that balance is achieved. Appearances by all candidates and their election teams are measured. Production teams should assist those monitoring and provide accurate information.

In the run-up to elections the appearance of politicians and candidates in non News and Current Affairs programming may need to be restricted. Programme-makers should seek advice from editorial management in advance of making commitments to politicians and candidates.

All programme-makers are obliged to achieve balanced coverage within their own programmes (either within individual programmes or within related programmes). Where unanticipated events occur which lead to balance not being achieved (e.g. a candidate not turning up for an interview or a link going down) the Steering Group must be informed at the earliest possible moment. Within News it is recognised that news values may over-ride considerations of apportioning of proportionate attention to candidates. At all times when this happens the Steering Group must be informed to allow full consideration of the consequences.

Criminal Activity and Broadcasting

Broadcasting legislation imposes the obligation on all programme-makers not to broadcast anything *likely to promote or incite to crime*. In the course of news, current affairs, documentaries and drama programmes the issue of crime may arise. It is important that in the treatment of the subject of crime programme-makers do not in any sense condone or encourage any criminal activity. The subject of crime is a legitimate area for programme-makers to explore and analyse. On occasion programme-makers may wish to interview those convicted of or involved in criminal activity. It is important on these occasions to ensure that the audience is aware of the reasons why the interview is being conducted and that the broadcast of the interview is not an endorsement of the criminal activity. Interviews may provide insights into the causes and consequences of crime. However there must not be an encouragement to commit crime. Consideration should be given to the inclusion of victims of crime in the reports which include contributions from those who commit crimes. However programme-makers should be sensitive to the rights of privacy of victims of crime. It may on occasion be necessary to include in an anonymous form the experiences of victims. Care must be taken that criminal activity is not glamorized.

Care must also be taken to ensure that the reporting of criminal activity does not unduly heighten public fear of crime.

People who have been convicted of criminal activity and who have served their sentences are entitled to the rehabilitation of their good name. Where a report includes details of a person's previous criminal history careful consideration should be given to the editorial justification for its inclusion. Where the context of a particular report does not require reference to previous criminal activity such references should be avoided. **Editorial management approval must be sought if consideration is being given to identifying someone on the sexual offenders' register.**

On occasion programme-makers may wish to record criminal activity as part of a report (for example, images of selling of drugs on the street). Where programme-makers consider this is required editorial management approval must be given before recording takes place.

As citizens, programme-makers have obligations to report illegal activity to the police. Where programme-makers believe that the public interest outweighs this obligation and with prior approval of editorial management a report which includes the portrayal of criminal activity may be broadcast without prior reporting to the Gardaí. **There is a fine line that has to be drawn between the obligations of citizens in ensuring that criminals are brought to justice and the public interest in exposing criminal activity. A reporter who finds himself or herself in these kinds of situations must seek the advice of editorial management. This advice must be sought sufficiently in time to enable legal advice to also be considered.** The public interest must always be the prime consideration.

Care must be exercised to ensure that reporting of criminal activity does not lead to imitative behaviour. Where a programme may have the effect of demonstrating how to commit some element of illegal activity, careful consideration should be given to

the overall balance of the public interest in such reporting. Many of the considerations that apply to the reporting of crime also apply to the reporting of anti-social behaviour.

The use of archive material or stock shots to illustrate criminal activity or anti-social behaviour creates additional problems. Account has to be taken of the editorial context in which material is originally recorded. In a different context and a different timeframe it may not be appropriate to use archives or stock shots. The repeat broadcast of a programme that includes criminal activity or anti-social behaviour may also cause problems. Account had to be taken of the passage of time and images of someone engaged in crime or anti-social behaviour at some time in the past may be unfair to that individual at a later date.

Advertising, Sponsorship and Commercial Considerations

Advertising

RTÉ derives approximately half of its income from commercial sources. However the ethos of RTÉ must always be public service broadcasting which is independent of commercial influences. There are guidelines on advertising, children and broadcasting, product placement and sponsorship which must be observed. The viewer and listener must not feel that programme content has been influenced in any way by an advertiser.

Sponsorship

All sponsorship arrangements, both for in-house and commissioned programmes, must be coordinated by RTÉ's Sponsorship Managers in Television or Radio and approved by RTÉ's Sponsorship Committee. Producers, both in-house and independent, must not enter contractual arrangements with potential sponsors without the involvement of the Sponsorship Managers.

Sponsorship can take several forms. An organisation or a commercial firm can enter a contractual relationship to sponsor a programme or a series. In a limited number of cases a specific contract can be negotiated whereby some or all of the sponsorship funding can go directly to the programme budget to enhance the programme. In exceptional circumstances sponsorship income can be used to directly fund the production. This applies to a situation where without sponsorship funding the programme could not be made. This arrangement can only be entered into with the approval of the Television or Radio boards. The same guidelines apply to independent producers as in-house producers. Note that by law there can be no sponsorship in Children's and Religious programming or in News or Current Affairs programmes.

In addition to payment to RTÉ in return for sponsorship recognition, commercial firms can offer sponsorship in kind by providing services or goods to a programme. The same guidelines apply in these instances as when the sponsorship involves cash payments.

Prizes

The supply of prizes to radio and television programmes is a form of sponsorship. Misuse of "gifted" prizes has the potential to damage public service broadcasting. Care must be exercised in the language and tone associated with prizes. The provision of prizes which are supplied *gratis* to RTÉ must not be accompanied by advertising copy read by the presenter of the programme. Exaggerated claims about the product must be avoided. The tone of the presenter must be neutral (i.e. he or she must not appear to be promoting the product.) Producers must ensure that companies supplying prizes are not using the supply of prizes as a way of avoiding advertising on radio and television.

RTÉ's **Broadcast Sponsorship Guidelines** are available on the RTÉ website (www.rte.ie).

Product Placement

Product placement (i.e. the inclusion of a product or service in a programme for a payment) is not allowed under any circumstances. Producers of sponsored events may permit the sponsor's role to be recognised by the public, but on television should endeavour to avoid excessive signage related to the sponsor being broadcast and on radio avoid excessive references to the sponsor.

Programme Rights, Royalties and Independent Productions

Rights and Royalties

The law relating to Intellectual Property Rights has developed in recent years. Rights have become a very important consideration in broadcasting practice. Programme-makers must familiarise themselves with some of the more important considerations. Works of intellect are just as capable of being “owned” as works of hand. Authors, composers, designers can all own “intellectual property” and if broadcasters wish to use these properties a licence must be obtained and the owners are entitled to payment. Great care must be exercised to avoid claims of plagiarism. Producers may discuss formats or ideas with creative people and then later on produce programmes which may contain some of the elements discussed in earlier conversations or meetings. This can lead to claims that ideas have been “stolen”, that copyright has been infringed or that a confidence has been breached.

Programme-makers must remember that there may be copyright fees and/or royalties due to third parties as a result of programmes being broadcast. It is the responsibility of programme-makers to ensure that music returns are complete, contractual arrangements are clear-cut and that clearances have been obtained for material not owned by RTÉ, etc.

Programme-makers must also be aware that they are responsible for ensuring contributors sign contracts giving the rights of the contribution to RTÉ. In programmes this may mean that OTS (On the Spot) contracts should be signed by contributors or performers when recording takes place. Where contributors’ involvement is greater than a simple interview more detailed contracts will normally be required. It is important that these contracts deal comprehensively with all rights issues and that RTÉ’s interests are protected. In News where transmission follows almost immediately on recording OTS contracts are not required. The agreement to participate in an interview is regarded as *permission* to broadcast the interview.

Independent Productions

RTÉ has a Code of Practice for the handling of programme proposals from independent producers. This Code of Practice specifically addresses the issue of ownership and protection of ideas, formats, etc. which are submitted to RTÉ or are the subject of discussions between RTÉ and independent producers. People working in RTÉ in receipt of programme proposals or scripts from outside of RTÉ should inform themselves of RTÉ’s approach to these matters. In addition to the normal contractual obligations as detailed in the programme contract between RTÉ and the independent production companies all programmes commissioned by RTÉ from the independent sector must adhere to the same guidelines as in house productions. RTÉ carries legal responsibility for all programmes it broadcasts. Notwithstanding this, independent producers are obliged to deliver to RTÉ programmes which do not infringe any third party’s copyright and comply with the law on defamation and, where relevant, contempt of court. Communication between independent production companies and RTÉ’s Commissioning Editors is just as important as in-house communication. Access to legal advice from RTÉ solicitors may be available to independent companies where programme content is problematic. Independent producers who

wish to seek legal advice must do so through the appropriate Commissioning Editor in radio or television.

Archives

RTÉ holds enormously valuable sound and visual archives built up since 1926. As well as having huge national cultural significance these archives are there to serve programming needs. Programme-makers need to be conscious of the value of the archives and to do nothing that can diminish that value. Equally programme-makers need to remember that the programmes and reports they are making today will themselves become part of the RTÉ archive in the future. Care of material after transmission to ensure tapes are properly archived and indexed is an important part of programme-makers' jobs. It is the responsibility of programme-makers to ensure that all information on rights restrictions as well as copyright ownership of footage and stills used in their programmes, are supplied to the Archives in whatever form the Library requires. If any of these details are not supplied the Archives staff cannot complete the records. Incomplete records will result in research difficulties for future programme-makers and can lead to breaches of copyright in some instances. Equally RTÉ will have difficulties in exploiting the commercial potential of its archives. The value of the archive is greatly enhanced if all contractual arrangements are clear and if proper records are kept. If copyright details are missing RTÉ may not be able to exploit the commercial potential in our archives.

The staff of the Libraries is there to protect and enhance RTÉ's holdings. The regulations they have introduced relating to research, duplication and loans must be adhered to. If regulations are broken or ignored the Library can revoke a programme-maker's rights to access to the library. Programme-makers do not have the authority to enter any contractual arrangements with other production companies where RTÉ's archives are offered in kind as part of RTÉ's commitment to the production. In-house productions, co-productions and independent productions must budget for archives' costs when planning programming that involves the use of RTÉ's Archives. Where programmes are planned that are likely to involve considerable usage of archive material the Head of Library should be informed at as early a stage as possible in the production process. The regulations apply across all media including web based services that provide access to archives as well as radio and television production.

RTÉ's Online Services

RTÉ Online provides an extensive service to people living in Ireland and abroad. It provides news, entertainment, business, sports, programme information and archives. It has become the first place people go to in order to find information about a whole range of topics. The same standards which apply to RTÉ's services on radio and television also apply to RTÉ Online. Users of Online are entitled to expect impartial and accurate news, fair comment and transparency in all its services. Programme-makers working on radio and television should consider the value added which Online can bring to their programming. This can be the supply of additional information about topics covered in programmes, it can be audience feedback, it can be extended debate, it can be interactive entertainment, it can be the building up of an extensive audio-visual library of contemporary life.

Increasingly the public will be accessing RTÉ's radio and television services through the web. In the years to come as technologies develop the distinctions between the various services will become less apparent. For some members of the public RTÉ will be RTÉ Online. Therefore it is vital that public trust and confidence in RTÉ Online is as high as it is for RTÉ Radio and Television.

Part of the services provided by RTÉ Online are links to other websites. When links are provided to third party websites RTÉ must be satisfied that the contents of these sites are appropriate. As RTÉ has no control over the contents of a linked website a legal disclaimer may be required. Care must be exercised to ensure that RTÉ's integrity and reputation are not damaged by any association with a website. Any advertising on RTÉ Online must be clearly identified as advertising. Editorial content must not be influenced by advertising or other commercial considerations.

Awareness that children may access websites without parental supervision must be taken into account at all times by those with editorial responsibility for the contents of RTÉ Online.

Premium Calls

Premium phone lines and premium text services are used to provide a range of audience interactive services for RTÉ Programmes. These include both voting and comment lines. Premium Call services are regulated by the Regulator of Premium Rate Telecommunications Services (Regtel). The full cost for users of Premium calls must be given (price per minute or price per call). On television the information must be left on screen for sufficient time and displayed sufficiently clearly to enable it to be read easily.

Children's Programmes

Where the audience is likely to be under 18 it is necessary to state that the bill-payer's permission should be sought. For children's programmes premium calls should be priced at the lower end of the price spectrum. Generally calls should not cost more than postage.

Terms and Conditions

Terms and Conditions should be available on the RTÉ website and or on Aertel.

Repeat Programmes

Efforts should be made to ensure that people do not attempt to use the Premium call service after the purpose for which it is intended has closed (e.g. if voting finishes at a particular time, that time should be clearly displayed or the information provided in voice over, so as to ensure people do not vote after voting has closed). Care must be taken when broadcasts are repeated to ensure that viewers are aware that they are viewing a repeat and that voting has been already completed. A caption on screen indicating that the programme is a repeat or is not live may be required.

These requirements apply equally to in-house and commissioned programmes. **All proposals to use premium call services must be cleared in advance of use by RTÉ's Audience Interactive Unit.**

Dealing with Complaints about Programming

Members of the public who watch and listen to RTÉ are entitled to express their views and complain about what is broadcast. Feedback from the audience is important for programme-makers. RTÉ must respond to all reasonable communications concerning programme content from the public. It is RTÉ's policy that all complaints should receive meaningful replies which attempt to address the issues raised in the complaint. This may on occasion involve accepting that there were shortcomings in a broadcast. If this is the view of the programme-makers the advice and guidance of editorial supervisors should always be obtained before replying. There may also be legal implications that need to be considered before a reply is issued.

The following procedure should be followed when a complaint is received:

- Editorial managers must be informed of all complaints which are judged to be of a serious nature
- All complaints received in writing or by-email should be replied to within 20 working days.
- Replies must address complaints in a thorough manner. It is not sufficient to “note the complaint” or to “pass on your views to the presenter”.
- If complainants indicate that they are not satisfied with the reply they receive, they should be informed that there is a review process available to them within RTÉ. The review will always be carried out by an Editorial Manager senior to the member of staff who replied to the complaint in the first instance. Members of the public who are not satisfied with the reply they receive should write to Complaints' Review, RTÉ, Donnybrook, Dublin, 4. Correspondence from Complaints' Review will include information about the public's right of complaint to the Broadcasting Complaints Commission. Correspondence may be by e-mail to complaints.review@rte.ie
- Copies of all complaints judged to be of a serious nature and their replies should be kept on file for one year after the broadcast of the programme which led to the complaint.

If members of the public chose to telephone RTÉ with their comments and complaints, generally speaking they will be connected to RTÉ's Information Office, where their complaints will be logged and compiled into a weekly summary which is considered by the various editorial boards. E-mail comments to complaints@rte.ie will also be logged and circulated. Where necessary the staff of the Information office will re-direct correspondence that needs specific replies from programme areas. If a telephone complainant gets through directly to a programme area the caller should receive the attention that is deserved. Where there are programme deadlines which require urgent attention and there is no time to listen to comments or complaints callers should be invited to leave a number and be called back when the deadlines has been passed. Abusive and persistent callers will be discouraged and their calls terminated.

Broadcasting Complaints Commission

The Broadcasting Complaints Commission (BCC) was established by the Minister for Posts and Telegraphs on 31 March 1977 under the provisions of Section 4 of the Broadcasting Authority Amendment Act, 1976. The BCC can only adjudicate on complaints relating to a limited area of RTE's activities. The remit of the BCC is to investigate complaints of the following nature:

News Broadcasts

- News reports that have failed to be objective and impartial
- News reports that incite crime or undermine the authority of the state
- News reports that include an expression of the Authority's own views. (This is understood to mean that the reports should not carry or promote the opinions of the journalists).

Current Affairs

- In addition to the requirements for News any programmes where the subject matter refers to matters of current debate programmes must be fair to all interests

Programming in General

- Complaints may also be made if members of the public feel their privacy has been unreasonably encroached upon.
- Complaints may be made if a viewer or listener believes that guidelines on taste and decency have been infringed. These guidelines are found in the Broadcasting Commission of Ireland's (BCI) Code of Programme Standards which is due to come into effect in early 2007 (available at www.bci.ie or www.bcc.ie).
- Complaints may be made where it is alleged that an assertion was made of inaccurate facts or information concerning the complainant which constituted an attack on that person's honour or reputation. This is referred to as slander. (See the section on Defamation)

Advertising

- A complaint may be made if a member of the public feels an advertisement broadcast on radio or television has infringed the BCI General Advertising Code or the Children's Advertising code (available at www.bci.ie or www.bcc.ie).

Complaints about advertising may also be made to the Advertising Standards Authority of Ireland (ASAI).

Programme-makers, whether in-house or working for independent production companies that have been commissioned by RTÉ, must assist in drawing up a submission in response to a complaint that has been forwarded by the BCC to RTÉ. If a complaint is upheld by the BCC, generally speaking RTÉ must broadcast the BCC's decision in a similar transmission time to the programme that led to the complaint. Obviously the broadcasting of findings which uphold complaints may damage RTÉ's credibility. Therefore it is in RTÉ's interest to prepare the best possible submission. It is not RTÉ's policy to defend the indefensible. So programme-makers cannot automatically expect the protection of RTÉ in responding to a complaint before the Commission. If RTÉ believes a programme failed to measure up to its statutory obligations, RTÉ will say so.

Complaints may be made in writing to The Broadcasting Complaints Commission, 2-5 Warrington Place, Dublin 2, or by email to www.bcc.ie . Their telephone number is 01 676 1097.

Health and Safety Issues

Everyone working in or for RTÉ has a statutory duty to take care of their own and others' safety while at work. An employer has a duty to identify hazards, to minimise risks and to ensure that the working environment is a safe place. (A hazard is anything that can cause harm; risk is the probability of that harm occurring). RTÉ's **Safety Statement** describes the main hazards associated with broadcasting and the control measures that must be put in place.

Production teams will on occasion find themselves working in circumstances or locations where an element of risk is involved, (for example, reporting on a riot). The duties of the employer then devolve on the producer or person in charge, who is responsible for the overall safety of the entire production team. The producer must weigh up the hazards and risks, judge the competence and training of every member of the production team, assess the importance of the particular piece of recording and make a decision whether to proceed or not with the recording.

If recording is planned sufficiently far in advance a safety plan should be drawn up in consultation with the other members of the crew, describing the hazards and risks, and how the safety of the crew is to be protected. Where risks have been identified and time is sufficient producers are obliged to prepare a risk assessment report. Any action which could reduce the level of risk should be taken, (for example it may be safer to record from a greater distance than would normally be the case). If it is judged that the risk is significant, any member of a production team is entitled to withdraw from that situation.

Although every employee has a duty of care towards fellow-workers, both RTÉ employees and freelance contractors, and also to members of the public, it is the producer (or person in charge) on whom the principal legal duties devolve.

Vulnerable groups

Particular attention must be paid to any situation where vulnerable groups such as children or elderly people are involved.

Crowds

Another area of concern is where there may be crowds present, (for example at a football match production teams must be mindful of any dangers to or from the spectators).

Heights

Extra care must be exercised when height is required for filming. Only competent scaffolders must be employed. Great care should be taken in contracting only competent hydraulic hoist (cherry-picker) operators. The presence of electricity lines, the direction of the wind, safety zones, stewarding, are all important considerations.

Other hazards

When hazardous substances or fire is involved in a production, special attention must be given to controlling the hazard. This will usually involve designating special responsibility to an individual. Stunts of any sort should never be attempted without a qualified co-ordinator present. The presence of qualified para-medical assistance may

be required. Animals may need special handlers. There are numerous other hazards (physical, chemical, biological, and psychological). If in doubt, seek advice.

Note: Taking out extra insurance cover does not absolve the producer from either civil or criminal liability.

If reporting is required from international war situations or where major natural disasters have taken place, RTÉ will provide special training and additional insurance cover. It is vitally important that an accurate risk assessment report is prepared before anyone travels to such dangerous situations. Counselling will be provided on return if required.

Useful information can be found at:
Health & Safety Authority <http://www.hsa.ie/>

Advice on Health and Safety is available from RTÉ's **Safety Officer**.

Bomb Warnings and Security in RTÉ

Bomb Warnings

Bomb warnings and similar threats must always be taken seriously however unlikely the warning. Remember that RTÉ may be used to pass on a warning. The quicker that warning is passed on to the emergency services the better. The first concern has to always be the safety of people.

Great care must be exercised in giving unwarranted publicity to warnings as a hoaxer may be encouraged to issue further warnings.

The Chief Security Officer has issued the following guidelines

1. Note the exact time of the call
2. Note the exact words of the threat - particularly the location of the bomb or other threat and the time the caller says it is likely to explode or happen.

3. Ask:

Where is the bomb or other threat now? What does it look like? When is it going to explode? Who planted it? Why was it planted?

4. Note whether the voice is male or female
5. Note the accent of the caller
6. Note whether the caller sounds intoxicated
7. Note any background noises - traffic, music, voices, etc.
8. Note if the voice is familiar -who?
9. Note the time the caller hung up.

If the threat relates to RTÉ personnel or property notify Security immediately. If RTÉ is being used to pass on a wider threat notify the Gardaí and your Manager immediately on receipt of the call. Note that 999 (or 112) is the best way to reach the Gardaí.

Security in RTÉ

It is important that production staff are aware of the access control and security policies at RTÉ. If there is any possibility that any production process may impact on security issues the Chief Security Officer should be consulted. Fire, safety and security regulations must be a major consideration in programme-making. It is important that all production staff familiarize themselves with all current fire, evacuation and safety regulations.

Programme-makers must not engage in, or encourage any one else to engage in, any activity that would compromise security at RTÉ, or in any way put in danger members of staff or members of the public.

People who are involved in programme-making, but who are not employed by RTÉ cannot be allowed open access to all areas of RTÉ. For example audiences should be contained within limited and agreed areas. Great care must be taken that the property of RTÉ and its staff is protected from theft and damage. No one should be invited onto RTÉ premises who is a risk to property or staff because of their nature or condition. It may be necessary on occasion to escort members of the public during their visit to RTÉ.

No activity in programme making should be undertaken that might activate the fire alarm system. The activation of the alarm system is a signal to evacuate buildings. Unnecessary evacuation as a result of false alarms may put staff at undue risk to their safety. The evacuation may also interrupt broadcasting.

Any aspect of programme making which conflicts with this section should be brought to the attention of the Chief Security Officer. Remember safety and security is everyone's concern.

Similar considerations and caution need to apply when working on location.