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St Helena Media Commission

NOTICE UNDER SECTION 6(3) OF THE MEDIA STANDARDS ORDINANCE 2011 OF A DRAFT ST HELENA MEDIA COMMISSION CODE OF PRACTICE

The St Helena Media Commission is charged with overseeing Media Services delivered in or from St Helena in accordance with the regulatory objectives set out in the Media Standards Ordinance 2011.

The regulatory objectives of the Commission are;

- (a) Protection of vulnerable persons (including, without prejudice to the generality, children and young persons);
- (b) Protection of the Public from the inclusion in Media Services of defamatory, discriminatory, offensive or harmful material;
- (c) Ensuring accuracy and impartiality in the delivery of factual material, and clear differentiation between material delivered as fact and that delivered as opinion or commentary;
- (d) Preventing the inclusion of advertising which is misleading, harmful or offensive;
- (e) preventing the use of techniques which exploit the possibility of conveying a message to the Public, or of otherwise influencing members of the Public, without their being aware, or fully aware, of what has occurred;
- (f) Ensuring compliance with any international obligations of St. Helena relating to Media Services;
- (g) Protection of Public safety, Public health, Public order and Public morality.

In applying the regulatory objectives, the Commission shall have regard to the constitutional rights to freedom of opinion and of expression, but shall ensure by the Code and the way it is administered that due regard is also had to the protection of the reputations, rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings or proceedings before any other tribunal or authority, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, posts, telegraphy, electronic communications, broadcasting or Public shows and to the rights to freedom of conscience, privacy, and freedom from discrimination.

The Ordinance does not have application to anything lawfully broadcast in St Helena by way of re-broadcast of material lawfully broadcast elsewhere and where the Provider has no effective means of editorial control. This excludes a considerable part of television Media Services in St Helena from the jurisdiction of the Commission. The Ordinance does however have application to locally broadcast television and radio Media Services.

The Ordinance provides that the Commission may issue Codes of Practice calculated to secure these regulatory objectives in relation to applicable Media Services provided in or from St. Helena.

NOTICE is hereby given by the Commission of this Draft Code intended to replace all existing codes. It is emphasised that this is a Draft Code and that comments or objections on the terms of the same should be submitted to the Clerk to the Commission, The Courthouse, Jamestown, (judicial.manager@sainthelena.gov.sh) within 28 days of the date of Publication of this notice in the Gazette.

DRAFT ST HELENA MEDIA CODE OF PRACTICE 2013

Definitions

In this Code:

“Adult Material” means material which the Commission considers objectively most parents would consider appropriate only for an adult. Adult Material can be based on violence, sex, aberrational behavior, drug abuse or any other elements that most parents would consider too strong and therefore inappropriate for viewing by Persons Not Yet Adult.

“Appropriate Scheduling” only applies to television and radio Media Services and shall be judged according to:

- The nature of the content of a Media Service;
- The likely number and age range of persons Not Yet Adult likely to be watching or listening to the Media Service;
- The start time and finish time of the Media Service;
- The nature of the channel or station and the Media Service; and
- The likely expectations of the Public for a channel or station at a particular time and on a particular day.

“Candidate”: means a Candidate standing nominated at an Election.

“Consent” means ‘informed Consent’ such as is likely to result from the taking of the measures specified in Section 6.3 of Part 3 of the Code.

“Context” includes (but is not limited to):

- The Media Service in which the material is disseminated;
- The time of dissemination;
- what other Media Services are scheduled before and after the Media Service concerned or what other material is contained in any Media Services;
- The degree of harm or offence likely to be caused by the inclusion of any particular sort of material in Media Services generally or Media Services of a particular description;
- The likely size and composition of the potential Public and likely expectation of the Public;
- The extent to which the nature of the content can be brought to the attention of the potential Public for example by giving information beforehand; and

- The effect of the material on the Public who may come across it unawares.

“Due Impartiality” means not favouring one side over another. “Due Impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to Due Impartiality may vary according to the nature of the subject, the type of Media Service, the likely expectation of the Public as to content, and the extent to which the content and approach is signalled to the Public.

“Election”: means a general Election or by-Election.

“Election Period”: means for a general Election, the period beginning with the announcement of the dissolution of Legislative Council. For a by-Election, this period begins with the date of the occurrence of a vacancy. In all cases the period ends with the close of the poll.

“Generally Accepted Standards” means standards which the Commission consider objectively the Public would consider to be generally acceptable taking into account the context.

“Guardian” means a person who looks after and is legally responsible for someone who is unable to manage their own affairs

“Life-changing Advice” includes direct advice for individuals upon whom they could reasonably act or rely about health, finance, employment or relationships.

“Mandatory Restricted Access” means there is a PIN protected system (or other equivalent protection) which cannot be removed by the user, that restricts access solely to those authorised to view.

“Matters of Major Political or Industrial Controversy and Major Matters Relating to Current Public Policy”: means generally Matters of Political or Industrial Controversy or Matters of Current Public Policy which are of national, and often international, importance and shall vary according to events.

“Matters of Political or Industrial Controversy” means “political or industrial issues on which politicians, industry and/or the media are in debate”.

“Matters relating to Current Public Policy” means relative to a policy under discussion or already decided by government or by bodies mandated to make policy on their behalf, and need not be the subject of debate.

“Media Service” includes, subject to Section 2(3) of the Ordinance, any radio or television Media Services, printed or internet Media Services and every other activity which constitutes the dissemination of information in a manner capable of being received (whether on payment or otherwise) by the Public.

“Media Service Competition” means a competition or free prize draw featured in a Media Service in which the Public are invited to enter by any means for the opportunity to win a prize.

“Media Services Included In Any Service Taken As A Whole”: means all programming on a Media Service dealing with the same or related issues within an appropriate period.

“Parental Responsibility” means being responsible for exercising some or all of the functions and responsibilities of a parent in the then prevailing circumstances.

“Personal View Media Services” means Media Services presenting a particular view or perspective. Personal View Media Services can range from the outright expression of highly partial views, for example by a person who is a member of a lobby group and is campaigning on the subject, to the considered “authored” opinion of a journalist, commentator or academic, with professional expertise or a specialism in an area which enables her or him to express opinions which are not necessarily mainstream.

“Persons Not Yet Adult” mean persons who are under the age of eighteen years;

“Printed Media” means a publication usually containing news regarding current events, informative articles, diverse features, editorials, and advertising whether in paper or electronic form.

“Provider” means any person who controls a Media Service.

“Public” includes any section of the Public where the Context requires the same.

“Public Interest” means the welfare or well-being of the Public including revealing or detecting crime, protecting Public health or safety, exposing misleading claims made by individuals, organisations or government or disclosing incompetence that affects the Public.

“Recording” means the recording of someone for Media Service purposes, without any prior warning. It does not, however, include vox-pops (sampling the views of random members of the Public).

“Referendum”: means a direct vote in which an entire electorate is asked to either accept or reject a particular proposal, usually a piece of legislation which may be passed into law by the Governor, Governor in Council or Legislative Council.

“Referendum Period”: means from the date a Referendum is announced until the close of the poll.

“Religious Media Service” means a Media Service which deals with matters of religion as the central subject, or as a significant part, of the Media Service.

“Seek Recruits” means directly appealing to Public members to join a religion or religious denomination.

“Series of Media Services Taken As A Whole” means more than one Media Service by the same Provider, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like Public. A series can include, for example, a strand, or two Media Services (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of Media Services on the same subject.

“Surreptitious Advertisements” means a reference to a product, service or trade mark within a Media Service, where such a reference is intended by the Provider to serve as advertisements and this is not made clear to the Public. Such advertisements are likely to be considered intentional if it occurs in return for payment or other valuable consideration to the Provider or another.

“Surreptitious Recording” means leaving an unattended camera or recording device on private property without the full and informed Consent of the occupiers or their agent and includes the use of long lenses. It also includes recording telephone conversations without the knowledge of the other party, or deliberately continuing a recording when the other party thinks that it has come to an end.

“The Watershed” is at 2100 being the time before which Adult Material shall not generally be broadcast as more particularly set out in this Code. The Watershed only applies to television and radio Media Services. On subscription film services which are not protected by Mandatory Restricted Access The Watershed is at 2000. There is no watershed on premium subscription film services or pay per view services which are protected by Mandatory Restricted Access.

“Undue Prominence of Views and Opinions”: means a significant imbalance of views aired within coverage of Matters of Political or Industrial Controversy or Matters Relating to Current Public Policy.

“Voting” means “features in a Media Service in which the Public are invited to register a vote by any means to decide or influence, at any stage, the outcome of a contest.

“Vulnerable Persons”: means Persons Not Yet Adult and persons who are susceptible to physical or emotional injury including those with learning difficulties, those with mental health problems, the bereaved, persons with brain damage or forms of dementia, persons who have been traumatised or who are sick or terminally ill.

“Warranted” means being able to demonstrate why in the particular circumstances of the case, it is warranted. If the reason is that it is in the Public Interest, then the Provider shall be able to demonstrate that the Public Interest outweighs another right e.g. a right to privacy.

Part One: Protection of Vulnerable Persons (including without prejudice to the generality, children and young persons)

Objective

To ensure that Vulnerable Persons are protected.

Section 1: Scheduling and content information for Persons Not Yet Adult

1.1 Providers shall take all reasonable steps, including Appropriate Scheduling and observance of The Watershed, to protect Persons Not Yet Adult from Media Services that contain Adult Material.

1.2 Adult Material shall not, in general, be broadcast on television or radio Media Services before 2100 or after 0530.

1.3 The transition to more Adult Material in television or radio Media Services shall not be unduly abrupt at The Watershed. The strongest material shall appear later in the schedule.

1.4 Providers shall appropriately forewarn members of the public, immediately before the commencement of the particular Media Service or on the first page of any Printed Media, that such Media Service contains Adult Material.

1.5 Printed Media which may be generally available to Person Not Yet Adult shall not contain Adult Material.

Section 2: Generally Protecting Vulnerable Persons

2.1 Providers shall appropriately forewarn members of the public, immediately before the commencement of the particular Media Service or on the first page of any Printed Media, that such Media Service contains material that may distress some Vulnerable Persons (taking into account the Context).

2.2 If a contributor to a Media Service is a Vulnerable Person, Consent may require to be obtained from a parent or Guardian, or other person of eighteen or over with parental responsibility. In particular, Vulnerable Persons shall not be asked for views on matters likely to be beyond their capacity to answer properly without such Consent.

2.3 Providers shall pay particular attention to the privacy of Vulnerable Persons. They do not lose their rights to privacy because, for example, of the fame or notoriety of their parents or because of events in their schools.

2.4 Where a Media Service features a Vulnerable Person in a way that infringes privacy, Consent may require to be obtained from:

- A parent, Guardian or other person of eighteen or over with parental responsibility; and
- Wherever possible, the individual concerned;

unless the subject matter is trivial or uncontroversial and the participation minor, or it is Warranted to proceed without Consent.

2.5 Vulnerable Persons should not be questioned about private matters without the Consent of a parent, Guardian or other person of eighteen or over with parental responsibility unless it is Warranted to proceed without Consent.

Section 3: The coverage of sexual and other offences in St Helena involving persons Not Yet Adult.

3.1 Where statutory or other legal restrictions apply preventing personal identification, Providers shall also be particularly careful not to provide clues which may lead to the identification of those who are Not Yet Adult (the defining age may differ in different legislation) and who are, or might be, involved as a victim, witness, defendant or other perpetrator in the case of sexual offences featured in criminal, civil or family court proceedings:

- By reporting limited information which may be pieced together with other information available elsewhere, for example in Printed Media reports (the ‘jigsaw effect’);
- Inadvertently, for example by describing an offence as “incest”; or
- In any other indirect way.

3.2 When covering any pre-trial investigation into an alleged criminal offence in St Helena, Providers shall pay particular regard to the potentially vulnerable position of any person who is Not Yet Adult who is involved as a witness or victim, before disseminating their name, address, identity of school or other educational establishment, place of work, or any still or moving picture of them. Particular justification is also required for the dissemination of such material relating to the identity of any person who is Not Yet Adult who is involved as a defendant or potential defendant.

Section 4: Drugs, smoking, solvents and alcohol

4.1 The use of illegal drugs, the abuse of drugs, smoking, solvent abuse and the misuse of alcohol:

- shall not be featured in Media Services made primarily for Persons Not Yet Adult unless there is strong editorial justification;
 - shall not be condoned, encouraged or glamourised in Media Services likely to be widely seen or heard by any person who is Not Yet Adult unless there is editorial justification;
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- shall generally be avoided and in any case shall not be condoned, encouraged or glamourised in Media Services before The Watershed or otherwise disseminated by a Provider unless there is editorial justification.

Section 5 Violence and dangerous behaviour

5.1 Violence, whether verbal or physical, or dangerous behaviour, or the portrayal of dangerous behaviour that is easily imitable by Persons Not Yet Adult in a manner that is harmful or dangerous:

- shall not be featured in Media Services which may be generally available to Persons Not Yet Adult unless there is strong editorial justification;
- shall not be disseminated before The Watershed unless there is strong editorial justification.

Section 6: Offensive language

6.1 The most offensive language shall not be disseminated before The Watershed;

6.2 Offensive language shall not be disseminated before The Watershed unless it is justified by the Context. In any event, frequent use of such language shall be avoided before The Watershed.

6.3 Offensive language shall not be used in Media Services which may be generally available to Person Not Yet Adult unless there is strong editorial justification;

Section 7: Sexual material

7.1 Measures shall be in place by Providers to ensure that the subscriber to or purchaser of any Media Service which disseminates Adult Material is an adult.

7.2 Representations of sexual intercourse shall not occur before The Watershed unless there is a serious educational purpose. Any discussion on, or portrayal of, sexual behaviour shall be editorially justified if included before The Watershed and shall be appropriately limited.

Section 8: Nudity

Nudity before The Watershed or otherwise disseminated by a Provider shall be justified by the Context.

Section 9: Films, premium subscription film services, pay per view services

9.1 No film refused classification by the British Board of Film Classification (BBFC) may be disseminated unless it has subsequently been classified or the BBFC has confirmed that it would not be rejected according to the standards currently operating. Also, no film cut as a condition of classification by the BBFC may be transmitted in a version which includes the cut material unless:

- The BBFC has confirmed that the material was cut to allow the film to pass at a lower category; or
- The BBFC has confirmed that the film would not be subject to compulsory cuts according to the standards currently operating.

9.2 BBFC 18-rated films or their equivalent shall not be disseminated before the Watershed on any Media Service (except for pay per view Media Services), and even then they may be unsuitable for broadcast at that time.

9.3 Premium subscription film services may disseminate up to BBFC 15-rated films or their equivalent, at any time of day provided that Mandatory Restricted Access is in place pre-2000

and post-0530. In addition, those security systems which are in place to protect Persons Not Yet Adult shall be clearly explained to all subscribers.

9.4 Pay per view Media Services may disseminate up to BBFC 18-rated films or their equivalent, at any time of day provided that Mandatory Restricted Access is in place pre-2100 and post-0530.

In addition:

- Information shall be provided about Media Service content that shall assist adults to assess its suitability for Persons Not Yet Adult;
- There shall be a detailed billing system for subscribers which clearly itemises all viewing including viewing times and dates; and
- Those security systems which are in place to protect Persons Not Yet Adult shall be clearly explained to all subscribers.

Section 10: Exorcism, the occult and the paranormal

Demonstrations of exorcisms, occult practices and the paranormal (which purport to be real), shall not be shown before The Watershed. Paranormal practices which are for entertainment purposes shall not be disseminated when significant numbers of Persons Not Yet Adult may be expected to be watching, or are particularly likely to be listening. (This rule does not apply to drama, film or comedy.)

Section 11: The involvement of Persons Not Yet Adults in Media Services

11.1 Due care shall be taken over the physical and emotional welfare and the dignity of Persons Not Yet Adult who take part or are otherwise involved in Media Services. This is irrespective of any Consent given by the participant or by a parent, Guardian or other person over the age of eighteen with parental responsibility.

11.2 Persons Not Yet Adult shall not be caused unnecessary distress or anxiety by their involvement in Media Services or by the dissemination of those Media Services.

11.3 Prizes aimed at Persons Not Yet Adult shall be appropriate to the age range of both the target Public and the participants.

Section 12: The involvement of Vulnerable Adults in Media Services

12.1 In the case of persons over sixteen who are not in a position to give Consent, a parent, Guardian or other person over the age of eighteen with parental responsibility shall normally give it on their behalf. In particular, persons not in a position to give Consent shall not be asked for views on matters likely to be beyond their capacity to answer properly without such Consent.

Part Two: Protection of the Public from defamatory, discriminatory, offensive or harmful material

The rules in this part are designed not only to provide adequate protection for adults but also to protect Persons Not Yet Adult.

Objective

To ensure that the Public are protected from the inclusion in Media Services of defamatory, discriminatory, offensive or harmful material.

Section 1: Generally Accepted Standards

1.1 Generally Accepted Standards shall be applied to the contents of Media Services so as to provide adequate protection for members of the Public from the inclusion in such services of defamatory, discriminatory, offensive and/or harmful material.

1.2 In applying Generally Accepted Standards Providers shall ensure that material which may cause offence is justified by the Context. Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Such material need not be directed towards a specific individual to come within the terms of this Code. Appropriate information shall also be disseminated where it would assist in avoiding or minimising offence.

1.3 Violence, its after-effects and descriptions of violence, whether verbal or physical shall be justified by the Context.

Section 2: Exorcism, the occult and the paranormal

2.1 Demonstrations of exorcism, the occult, the paranormal, divination, or practices related to any of these that purport to be real (as opposed to entertainment) shall be treated with due objectivity.

2.2 If a demonstration of exorcism, the occult, the paranormal, divination, or practices related to any of these is for entertainment purposes, this shall be made clear to viewers and listeners.

2.3 Demonstrations of exorcism, the occult, the paranormal, divination, or practices related to any of these (whether such demonstrations purport to be real or are for entertainment purposes) shall not contain Life-changing Advice directed at individuals.

(Religious Media Services are exempt from this rule but shall, in any event, comply with the provisions in Part Seven Section 4: Religion. Films, dramas and fiction generally are not bound by this rule.)

Section 3: Privacy

3.1 Any infringement of privacy in Media Services, or in connection with obtaining material included in Media Services, shall be Warranted.

3.2 Legitimate expectations of privacy shall vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the Public domain (if at all) and whether the individual concerned is already in the Public eye. There may be circumstances where persons can reasonably expect privacy even in a Public place. Some activities and conditions may be of such a private nature that recording, even in a Public place, could involve an infringement of privacy. Persons under investigation or in the Public eye, and their immediate family and friends, retain the right to a private life, although private behaviour can raise issues of legitimate Public Interest.

3.3 Information which discloses the location of a person's home or family shall not be revealed without permission, unless it is Warranted.

3.4 When persons are caught up in events which are covered by the news they still have a right to privacy unless it is Warranted to infringe it. This applies both to the time when these events are taking place and to any later Media Services that revisit those events.

3.5 Providers shall ensure that words, images or actions filmed or recorded in a Public place, are not so private that prior Consent is required before disseminating from the individual or organisation concerned, unless disseminating without their Consent is Warranted.

3.6 Any infringement of privacy in a Media Service shall be with the person's and/or organisation's Consent or is otherwise Warranted.

3.7 If the dissemination of a Media Service would infringe the privacy of a person or organisation, Consent shall be obtained before the relevant Media Service is disseminated, unless the infringement of privacy is Warranted. (Callers to phone-in shows are deemed to have given Consent to the Provider of their contribution.)

3.8 If an individual or organisation's privacy is being infringed, and they ask that the recording or live Media Service be stopped, the Provider shall do so, unless it is Warranted to continue.

3.9 When recording in institutions, organisations or other agencies, permission shall be obtained from the relevant authority or management, unless it is Warranted to film or record without permission. Individual Consent of employees or others whose appearance is incidental or where they are essentially anonymous members of the general Public shall not normally be required. However, in potentially sensitive places such as ambulances, hospitals, schools, prisons or police stations, separate Consent shall normally be obtained before recording from those in sensitive situations (unless not obtaining Consent is Warranted). If the individual shall not be identifiable in the Media Service then separate Consent for dissemination shall not be required.

3.10 The means of obtaining material shall be proportionate in all the circumstances and in particular to the subject matter of the Media Service.

3.11 Providers shall ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose and then used in a Media Service for another purpose or used in a later or different Media Service, does not create an unwarranted infringement of privacy. This applies both to material obtained from others and the Provider's own material.

3.12 Recording for factual Media Services shall not take place unless a request for an interview has been refused or it has not been possible to request an interview, or there is good reason to believe that an investigation shall be frustrated if the subject is approached openly, and it is Warranted to doorstep. However, normally Providers may, without prior warning interview, film or record Persons in the news when in Public places.

3.13 Providers can record telephone calls between the Provider and the other party if they have, from the outset of the call, identified themselves, explained the purpose of the call and that the call is being recorded for possible Media Services (if that is the case) unless it is Warranted not to do one or more of these practices. If at a later stage it becomes clear that a call that has been recorded shall be used in a Media Service (but this was not explained to the other party at the time of the call) then the Provider shall obtain Consent before dissemination from the other party, unless it is Warranted not to do so.

3.14 Surreptitious Recording shall only be used where it is Warranted. Normally, it shall only be warranted if:

- There is on first examination a story which appears to be evident from the facts to be in the Public Interest; and
- There are reasonable grounds to suspect that further material evidence could be obtained; and
- It is necessary to the credibility and authenticity of the Media Service.

3.15 Material gained by Surreptitious Recording shall only be disseminated when it is Warranted.

3.16 Surreptitious Recording or recorded 'wind-up' calls to obtain material for entertainment purposes may be Warranted if it is intrinsic to the entertainment and does not amount to a significant infringement of privacy such as to cause significant annoyance, distress or embarrassment. The resulting material shall not be disseminated without the Consent of those involved. However if the individual and/or organisation is not identifiable in the Media Service then Consent for dissemination shall not be required.

3.17 Providers shall not take or disseminate pictures, footage or audio of persons caught up in emergencies, victims of accidents or those suffering a personal tragedy, even in a Public place

where that results in an infringement of privacy, unless it is Warranted or the persons concerned have given Consent.

3.18 Persons in a state of distress shall not be put under pressure to take part in a Media Service or provide interviews, unless it is Warranted.

3.19 Providers shall take care not to reveal the identity of a person who has died or of victims of accidents or violent crimes, unless and until it is clear that the next of kin have been informed of the event or unless it is Warranted.

3.20 Providers shall try to reduce the potential distress to victims and/or relatives when making or disseminating Media Services intended to examine past events that involve trauma to individuals (including crime) unless it is Warranted to do otherwise. This applies to dramatic reconstructions and factual dramas, as well as factual Media Services. In particular, so far as is reasonably practicable, surviving victims and/or the immediate families of those whose experience is to feature in a Media Service, shall be informed of the plans for the Media Service and its intended dissemination, even if the events or material to be disseminated have been in the Public domain in the past.

Part Three: Ensuring accuracy and impartiality

Objective

To ensure accuracy and impartiality in the delivery of factual material, and clear differentiation between materials delivered as fact and that delivered as opinion or commentary.

Section 1: Misleading

1.1 Factual Media Services shall not materially mislead the Public.

Section 2: Due Impartiality and due accuracy in news

2.1 News, in whatever form, shall be reported with due accuracy and presented with Due Impartiality.

2.2 Significant mistakes in news shall normally be acknowledged and corrected quickly. Corrections shall be given appropriate prominence whether by scheduling or location.

2.3 No politician may be used as a newsreader, interviewer or reporter in any news Media Services unless, exceptionally, it is editorially justified.

Section 3: The preservation of Due Impartiality

3.1 Due Impartiality on matters of Political or Industrial Controversy and matters relating to Current Public Policy shall be preserved on the part of any person providing a Media Service. This may be achieved within a particular Media Service or over a Series of Media Services taken as a whole.

3.2 The dissemination of editorially linked Media Services dealing with the same subject matter (as part of a series in which the Provider aims to achieve Due Impartiality) shall normally be made clear to the Public at the time of dissemination.

3.3 Views and facts shall not be misrepresented. Views shall also be presented with due weight over appropriate timeframes.

3.4 Any personal interest of a reporter or presenter, which would call into question the Due Impartiality of the Media Service, shall be made clear to the Public.

3.5 Presenters and reporters (with the exception of news presenters and reporters in news Media Services), presenters of “personal view” or “authored” Media Services, and chairs of discussion Media Services may express their own views on matters of Political or Industrial

Controversy or matters relating to Current Public Policy. However, alternative viewpoints shall be adequately represented either in the Media Service, or in a series of Media Services taken as a whole. Additionally, presenters or reporters shall not use the advantage of regular appearances to promote their views in a way that compromises the requirement for Due Impartiality. Presenter phone-ins or letters to publishers shall encourage and shall not exclude alternative views.

3.6 A “personal view” or “authored” Media Service shall be clearly signalled to the Public at the outset. This is a minimum requirement and may not be sufficient in all circumstances. (Personality phone-in hosts on radio are exempted from this provision unless their personal view status is unclear.)

3.7 In addition to the rules above, Due Impartiality shall be preserved on matters of Major Political and Industrial Controversy and major matters relating to current Public policy by the person providing a service in each Media Service or in clearly linked and timely Media Services.

3.8 In dealing with Matters of Major Political and Industrial Controversy and Major Matters relating to Current Public Policy an appropriately wide range of significant views shall be included and given due weight in each Media Service or in clearly linked and timely Media Services. Views and facts shall not be misrepresented.

3.9 Providers shall not give undue prominence to the views and opinions of particular persons or bodies on matters of Political or Industrial Controversy and Matters relating to Current Public Policy in all the Media Services included in any Media Service taken as a whole.

Section 4: Media Services at the time of Elections and referendums

4.1 The rules in Section Four, in particular the rules relating to Matters of Major Political or Industrial Controversy and Major Matters Relating to Current Public Policy, apply to the coverage of Elections and referendums.

The remainder of this section only applies during the actual Election or Referendum Period.

4.2 Due weight shall be given to the coverage of Candidates with significant views and perspectives during the Election Period.

4.3 Discussion and analysis of Election and Referendum issues shall finish when the poll opens. (This refers to the opening of actual polling stations. This rule does not apply to any poll conducted entirely by post.)

4.4 Providers may not publish the results of any opinion poll on polling day itself until the Election or Referendum poll closes.

4.5 Candidates in Elections shall not act as news presenters, interviewers, presenters or journalists of any type of Media Service during the Election Period.

4.6 If a Candidate takes part in an item then all other Candidates shall be offered the opportunity to take part. (However, if they refuse or are unable to participate, the item may nevertheless go ahead.)

4.7 Any electoral report or discussion after the close of nominations shall include a list of all Candidates standing, giving first names and surnames.

Section 5: Fairness

5.1 Providers shall avoid unjust or unfair treatment of individuals or organisations in Media Services.

5.2 Providers shall normally be fair in their dealings with potential contributors to Media Services unless, exceptionally, it is justified to do otherwise.

5.3 Where a person is invited to make a contribution to a Media Service (except when the subject matter is trivial or their participation minor) they shall normally, at an appropriate stage:

- be told the nature and purpose of the Media Service, what the Media Service is about and be given a clear explanation of why they were asked to contribute and when (if known) and where it is likely to be first disseminated;
- be told what kind of contribution they are expected to make, for example live, pre-recorded, interview, discussion, edited, unedited, etc.;
- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the Media Service as it develops which might reasonably affect their original Consent to participate, and which might cause material unfairness;
- be told the nature of their contractual rights and obligations and those of the Provider in relation to their contribution; and
- be given clear information, if offered an opportunity to preview the Media Service, about whether they shall be able to effect any changes to it.

It may be fair to withhold all or some of this information where it is justified in the Public interest or under other provisions of this Part of the Code.

5.4 When a Media Service is edited, contributions shall be represented fairly.

5.5 Guarantees given to contributors, for example relating to the content of a Media Service, confidentiality or anonymity, shall normally be honoured.

5.6 Providers shall ensure that the re-use of Media Services, i.e. use of Media Services originally filmed, recorded or published for one purpose and then used in a Media Service for another purpose or used in a later or different Media Service, does not create unfairness. This applies both to Media Services obtained from others and the Provider's own Media Services.

5.7 Before disseminating a factual Media Service, including Media Services examining past events, Providers shall take reasonable care to satisfy themselves that:

- Material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
- Anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute.

5.8 Media Services – such as dramas and factually-based dramas – shall not portray facts, events, individuals or organisations in a way which is unfair to an individual or organisation.

5.9 If a Media Service alleges wrongdoing or incompetence or makes other significant allegations, those concerned shall normally be given an appropriate and timely opportunity to respond.

5.10 Where a person approached to contribute to a Media Service chooses to make no comment or refuses to appear in a Media Service, the Media Service shall make clear that the individual concerned has chosen not to appear and shall give their explanation if it would be unfair not to do so.

5.11 Where it is appropriate to represent the views of a person or organisation that is not participating in the Media Service, this shall be done in a fair manner.

5.12 Providers shall not normally obtain or seek information, audio, pictures or an agreement to contribute through misrepresentation or deception. (Deception includes Surreptitious Recording.) However:

- it may be warranted to use material obtained through misrepresentation or deception without Consent if it is in the Public interest and cannot reasonably be obtained by other means;
- where there is no adequate Public Interest justification, for example some unsolicited wind-up calls or entertainment set-ups, Consent shall be obtained from the individual and/or organisation concerned before the Media Services is disseminated;
- if the individual and/or organisation is/are not identifiable in the Media Service then Consent for dissemination of the Media Service shall not be required;
- Media Services involving celebrities and those in the Public eye can be used without Consent for Media Services, but it shall not be used without a Public Interest justification if it is likely to

result in unjustified Public ridicule or personal distress. (Normally, therefore such contributions shall be pre-recorded.)

Part Four: Misleading, harmful or offensive advertisements

Objective

To prevent the inclusion of advertisements which are misleading, harmful or offensive.

- 1.1 The central principle for all advertisements is that they shall be legal, decent, honest and truthful. All advertisements shall be prepared with a sense of responsibility to consumers and society and shall reflect the spirit, not merely the letter, of this Code.
- 1.2 Marketers shall take account of the Generally Accepted Standards and the Context in which a marketing communication is likely to appear to minimise the risk of causing harm or serious or widespread offence.
- 1.3 Care shall be taken when featuring or addressing persons Not Yet Adult in advertisements. The way in which persons Not Yet Adult perceive and react to advertisements is influenced by their age, experience and the Context in which the message is delivered. Advertisements that are acceptable for older teenagers shall not necessarily be acceptable for younger persons Not Yet Adult. The Commission shall take those factors into account when assessing whether advertisements complies with the Code.
- 1.4 Individuals shall be protected from unwarranted infringements of privacy in any advertisements.
- 1.5 Advertisements for alcoholic drinks shall not be targeted at Persons Not Yet Adult and shall not imply, condone or encourage immoderate, irresponsible or anti-social drinking.
- 1.6 Advertisements shall not condone or encourage unsafe or inconsiderate driving practices. If they make environmental claims, advertisements for motor vehicles, fuel or accessories shall not materially mislead.
- 1.7 Advertisements shall distinguish clearly between offers of employment and business opportunities. Employment advertisements shall relate to genuine vacancies and potential employees shall not be asked to pay for information.

Part Five: Prevention of the use of exploitative techniques

Objective

To prevent the use of techniques which exploit the possibility of conveying a message to the Public, or of otherwise influencing members of the Public, without their being aware, or fully aware, of what has occurred.

Section 1: Hypnotic and other techniques, simulated news

- 1.1 When disseminating material featuring demonstrations of hypnotic techniques, Providers shall exercise a proper degree of responsibility in order to prevent hypnosis and/or adverse reactions in viewers and listeners. The hypnotist shall not disseminate his/her full verbal routine or be shown performing straight to camera.
 - 1.2 Simulated news (for example in drama or in documentaries) shall be disseminated in such a way that there is no reasonable possibility of the Public being misled into believing that they are listening to, watching or reading, actual news.
 - 1.3 Providers shall not use techniques which exploit the possibility of conveying a message to viewers, listeners or readers, or of otherwise influencing their minds without their being aware, or fully aware, of what has occurred.
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Section 2: Media Service Competitions and Voting

- 2.1 Media Service Competitions and Voting shall be conducted fairly.
- 2.2 Providers shall ensure that viewers, listeners and readers are not materially misled about any Media Service Competition or Voting.
- 2.3 Providers shall draw up rules for any significant Media Service Competition or vote. These rules shall be clear and appropriately made known. In particular, significant conditions that may affect a viewer's, listener's or reader's decision to participate shall be stated at the time an invitation to participate is in any way disseminated.
- 2.4 Media Service Competition prizes shall be described accurately.

Part Six: Ensuring compliance with any international obligations of St. Helena**Objective**

Ensuring compliance with any international obligations of St Helena relating to Media Services.

- 1.1 Providers shall comply with any international obligations of St Helena relating to Media Services.

Part Seven: Protection of the Public safety etc.**Objective**

To protect Public safety, Public health, Public order and Public morality.

Section 1: Crime

- 1.1 Media Services likely to encourage or incite the commission of crime or to lead to disorder shall not be disseminated.
- 1.2 Descriptions or demonstrations of criminal techniques which contain essential details which could enable the commission of crime shall not be disseminated unless editorially justified.
- 1.3 No payment, promise of payment, or payment in kind, may be made to convicted or confessed criminals whether directly or indirectly for a Media Service contribution by the criminal (or any other person) relating to his/her crime/s. The only exception is where it is in the Public interest.
- 1.4 While criminal proceedings are active, no payment or promise of payment may be made, directly or indirectly, to any witness or any person who may reasonably be expected to be called as a witness. Nor shall any payment be suggested or made dependent on the outcome of the trial. Only actual expenditure or loss of earnings necessarily incurred during the making of a Media Service contribution may be reimbursed.
- 1.5 Where criminal proceedings are likely and foreseeable, payments shall not be made to persons who might reasonably be expected to be witnesses unless there is a clear Public Interest, such as investigating crime or serious wrongdoing, and the payment is necessary to elicit the information. Where such a payment is made it shall be appropriate to disclose the payment to both defence and prosecution if the person becomes a witness in any subsequent trial.
- 1.6 Providers shall use their best endeavours so as not to disseminate Media Services that could endanger lives or prejudice the success of attempts to deal with a hijack or kidnapping.

Section 2: Violence, dangerous behaviour and suicide

2.1 Media Services shall not include material which, taking into account the Context condones or glamourises violent, dangerous or seriously antisocial behaviour and is likely to encourage others to copy such behaviour.

2.2 Methods of suicide and self-harm shall not be included in Media Services except where they are editorially justified and are also justified by the Context.

Section 3: Photosensitive Epilepsy

3.1 Providers shall take precautions to maintain a low level of risk to viewers who have photosensitive epilepsy. Where Providers can demonstrate that the dissemination of flashing lights and/or patterns is editorially justified, viewers shall be given an adequate verbal and also, if appropriate, text warning at the start of the Media Service item.

Section 4: Religion

4.1 Providers shall exercise the proper degree of responsibility with respect to the content of Media Services which are Religious Media Services.

4.2 The religious views and beliefs of those belonging to a particular religion or religious denomination shall not be subject to abusive treatment.

4.3 Where a religion or religious denomination is the subject, or one of the subjects, of a Religious Media Service, then the identity of the religion and/or denomination shall be clear to the Public.

4.4 Religious Media Services shall not seek to promote religious views or beliefs by stealth.

4.5 Religious television or radio Media Services shall not Seek Recruits.

4.6 Religious Media Services shall not improperly exploit any susceptibilities of the Public.

4.7 Religious Media Services that contain claims that a living person (or group) has special religious powers or abilities shall treat such claims with due objectivity and shall not disseminate such claims when significant numbers of Persons Not Yet Adult may be expected to be watching, listening or reading.