



# Guidance Notes

**Section 2:  
Harm and offence**

## Section Two

# Harm and Offence

## Guidance

This guidance is non-binding. It is provided to assist broadcasters interpret and apply the Broadcasting Code. Research which is relevant to this section of the Code is indicated below.

Every complaint or case will be dealt with on a case by case basis according to the individual facts of the case.

We draw broadcasters' attention to the legislative background of the Broadcasting Code which explains that:

“Broadcasters are reminded of the legislative background that has informed the rules, of the principles that apply to each section, the meanings given by Ofcom and of the guidance issued by Ofcom, all of which may be relevant in interpreting and applying the Code. No rule should be read in isolation but within the context of the whole Code including the headings, cross references and other linking text.”

This section addresses potential and actual harm and/or offence. Broadcasters may make programmes about any issue they choose, (so long as they comply with the general law and the Broadcasting Code). The rules and this guidance cannot anticipate every situation. Moreover, social mores and sensitivities change both over time and in response to events.

### Rule 2.1

We recognise that some programming may include material that has the potential to be harmful or offensive. This puts a responsibility on the broadcaster to take steps to provide adequate protection for the audience. The criteria outlined in the meaning of “context” give an indication of what this may involve. Ofcom regularly publishes complaints bulletins which provide information on matters members of the public have found harmful or offensive and Ofcom's decision in those cases.

### Generally accepted standards

Broadcasters and the public view and listen to material measured against a background of generally accepted. Ofcom licenses an increasing number of satellite and cable channels, who broadcast solely to non-UK countries where different standards may apply. The understanding of what is “generally accepted standards” should be underpinned by relevant research.

Generally accepted standards will change over time and will also vary according to the context (as set out under Rule 2.3 of the Broadcasting Code).

For further guidance on “generally accepted standards” please see rest of this guidance.

## Rule 2.2

Although it is a fundamental requirement of broadcasting that an audience should not be misled in the portrayal of factual matters, Ofcom only regulates the accuracy of programmes *per se* in News programmes.

Nevertheless, Ofcom is required to guard against harmful or offensive material, and it is possible that actual or potential harm and / or offence may be the result of misleading material in relation to the representation of factual issues. This rule is therefore designed to deal with content which **materially misleads the audience so as to cause harm or offence**.

It is not designed to deal with issues of in-accuracy or misleading material in non-news programmes and complaints that relate solely to inaccuracy rather than with harm or offence will not be entertained.

Whether a programme or item is “*materially*” misleading depends on a number of factors such as the context, the editorial approach taken in the programme, the nature of the misleading material and above all what the potential effect could be or actual harm or offence that has occurred.

This rule does not apply to News. News is regulated under [Section Five](#).

## Rule 2.3 Context and information

### Offensive language

It should be noted that audience expectations and composition vary between television and radio and each medium has different listening/viewing patterns. Broadcasters should know their audiences.

The use of language (including offensive language) is constantly developing. Whether language is offensive depends on a number of factors. Language is more likely to be offensive, if it is contrary to audience expectations. Sensitivities can vary according to generation and communities/cultures.

Offensive material (including offensive language) must be justified by the context (as outlined under Rule 2.3 in the Broadcasting Code).

Broadcasters should be aware that there are areas of offensive language and material which are particularly sensitive.

Racist terms and material should be avoided unless their inclusion can be justified by the editorial of the programme. Broadcasters should take particular care in their portrayal of culturally diverse matters and should avoid stereotyping unless editorially justified. When considering such matters, broadcasters should take into account the possible effects programmes may have on particular sections of the community.

Similar considerations apply to other area of concern (as referred in the Broadcasting Code). For example, broadcasters should be aware that the use of bad language directly coupled with holy names may have a particular impact on people with strongly held beliefs which goes beyond any offence that may be caused by the bad language itself.

In addition to the editorial justification and context, broadcasters will wish to take into account:

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

*Research: Delete expletives? (2000) ASA, BBC, BSC, ITC; Offensive Language and Imagery in Broadcasting: A Contextual Investigation (2005) Ofcom; Violence and the viewer (1998) BBC, BSC, ITC*

### **Discriminatory treatment or language (for example, matters relating to age, disability, gender, race, religion and sexual orientation)**

There is a relationship between *representation* – the presence and inclusion of a diverse range of people on screen - and *portrayal* - the roles involved and the way that minority groups are presented in programmes. In standards regulation, the latter is assessed by *context* (as defined in the Code).

Research suggests that viewers and listeners appreciate programmes that are representative of the diverse society in which they live. If there is an under-representation, the use of stereotypes and caricatures or the discussion of difficult or controversial issues involving that community may be seen as offensive in that it is viewed as creating a false impression of that minority.

*Research: Multicultural broadcasting: concept and reality (2002) BSC, ITC, BBC, RA; Disabling prejudice (2003) BBC, BSC, ITC; Representations of ethnicity and disability on television (2003) BSC, ITC*

### **Information, labelling and warnings**

Viewers and listeners are taking an increasing responsibility for what they watch and listen to and, for their part, broadcasters should assist their audience. Apart from the general considerations given in the Code about context, giving clear information and adequately labelling content may also reduce the potential for offence.

Where a programme has dealt with a particularly sensitive issue, broadcasters may wish to provide a helpline specific to that issue.

*Research: The Broadcasting Standards Regulation (2003) BSC, ITC; Striking a balance: the control of children's media consumption (2002) BBC, BSC, ITC; Dramatic Licence: fact or fiction? (2003) BSC; Audio Visual content information (2005) Ofcom*

## Trailers and Programme Promotions

Trailers come upon audiences unawares, so that people are not able to make informed choices about whether to watch or listen to them. Broadcasters should bear this in mind when scheduling trailers which may include potentially offensive material.

Broadcasters should also bear this in mind when scheduling trailers which may include challenging material (which includes but is not limited to, the use of the most offensive language, graphic violence or sexually explicit scenes).

The requirement in Rule 2.3 that broadcasters must ensure that material which may cause offence is justified by the context, equally applies to programme trailers. Therefore, trailers including challenging material (see above) may, in principle, be permitted post-watershed, provided they are sufficiently contextualised. It is therefore expected that:

- where such a trailer is broadcast during programming that is dissimilar in content – advance information should be given; or
- where the content of the trailer is substantially similar\* to the programming either side of it - no advance information may be necessary.

In such cases, where the content of the trailer is substantially similar to the programming either side of it, then, it is not likely to be necessary for broadcasters to provide further advance information if either:

- such information has already been given to the audience about the programme broadcast before the trailer (e.g. “the following programme contains language that some viewers might find offensive”); or
- the likely expectation of the audience is that the programme contains challenging material and the trailer contains substantially similar material.

\*Broadcasters should note the use of the term “substantially similar”. Simply because programming either side of a trailer contains adult themes does not mean that any trailer would be permitted e.g. audiences watching a programme containing offensive language would not necessarily expect a trailer broadcast during that programme to contain graphic violence or sexually explicit scenes.

## Rule 2.4 Violent, dangerous or seriously anti-social behaviour

Broadcasters should have the creative freedom to explore areas which may raise serious social issues. This editorial freedom may extend to the style and tone of the programme as humour or dramatisation may provide easier access to difficult topics. However there are a range of activities that may be more problematic and the approach, such as information given before the programme or before an activity and the tone of commentary, is important in setting the parameters.

Late night shows featuring extreme sports or stunts have raised issues about the glamorisation of such activities. Even when scheduled appropriately, late at night, they may still raise questions in terms of vulnerable and younger viewers who may be encouraged to believe such behaviour is easily/harmlessly copied or acceptable.

*Research: Dramatic Licence: fact or fiction? (2003) BSC; Violence and the viewer (1998) BBC, BSC, ITC; Knowing the score (2000) BSC, BBFC;*

## **Rule 2.5 Suicide and self-harm**

This rule reflects a continued concern about the impact of real or portrayed suicide, and self-harm, on those whose minds may be disturbed. Whilst it is always difficult to prove causality, various studies have shown that there may be a short-lived increase in particular methods of suicide portrayed on television. Broadcasters should consider whether detailed demonstrations of means or methods of suicide or self-harm are justified.

## **Rules 2.6, 2.7 and 2.8**

### Section 1 for following topics:

- Exorcism
- Occult
- Tarot
- Spells
- Paranormal
- Divination
- Astrology

Broadcasters and members of the public's attention is directed to the *Fraudulent Mediums Act 1951*. If members of the public believe that practitioners are acting in a way that would be caught by the provisions of this Act, it is a matter for the law and not for this Code.

## **Rule 2.9 Hypnosis**

Elements of the hypnotist's routine may be broadcast to set the scene. However, it is important not to broadcast the routine in its entirety, nor to broadcast elements that may cause a member of the audience to believe they are being influenced in some way.

Broadcasters and interested members of the public will wish to be aware of the provisions of the *Hypnotism Act 1952*. If members of the public believe that practitioners are acting in a way that would be caught by the provisions of this Act, it is a matter for the law and not for this Code.

## **Rule 2.11 Competitions**

**Note:** The following guidance refers to all competitions, including Call TV quiz services.

### **Competitions that use Premium Rate Entry**

- Complaints to Ofcom alleging the broadcast of misleading information about premium rate charges and/or line availability will normally be referred to ICSTIS, since they are considered to be complaints about promotional material concerning the premium rate service (PRS) itself. ICSTIS has issued A Statement of Expectations on Call TV Quiz Services, which can be found at [http://www.icstis.org.uk/pdfs\\_consult/QuizTvConResponse06.pdf](http://www.icstis.org.uk/pdfs_consult/QuizTvConResponse06.pdf) and, where relevant, should be considered alongside its Code of Practice.
- Complaints concerning potential unfairness surrounding the conduct of a competition, or its solution and/or methodology, will normally be investigated by Ofcom.

### **Free Entry Route**

- In the future, legislation will require that free entry routes (where required) should be given equal prominence with other routes. We would encourage broadcasters to adopt this as best practice now, in advance of all the provisions of the Gambling Act 2005 coming into force. Broadcasters should be aware of the Gambling Commission's requirements concerning free entry routes, when published.

### **Prizes**

- Prizes should be despatched within a reasonable time (note: where relevant, ICSTIS' requirements may apply), unless indicated otherwise when the prize is described.
- If particular prizes become unavailable post-broadcast, we would expect comparable substitutes to be provided.
- We would strongly advise broadcasters not to present a monetary prize as a possible resolution of financial difficulty (e.g. as a means of paying off credit card debt). See also Rule 2.1.

### **Competition Rules**

- To ensure clarity, we expect rules that limit those who can take part in a competition to be broadcast. (Note: their broadcast is not expected if specific individuals – e.g. previous prize winners – have been informed directly). In particular, where such rules are considered to be significant (e.g. an age limit for entering a competition) broadcasters should air them orally each time a competition is run and on a regular basis throughout longer sequences.
- We strongly recommend that broadcasters produce written rules and/or terms and conditions that support all or specific competitions being broadcast by them. Where the competition is broadcast on television, details of where the relevant rules are available (e.g. on the channel/programme's website) ought to be aired regularly, while on radio,

where competition strands are often shorter, we would normally expect such details to be mentioned at least occasionally. Broadcasters may also need to be aware of ICSTIS' requirements regarding this issue, including those in its Statement of Expectations.

- Competitions are sometimes run simultaneously on various local/regional services (e.g. on a radio network), and this may result in participation being spread wider (i.e. beyond the local area) than might be obvious to the viewer/listener in any one area. In such circumstances, and where the main prize is not awarded by each service, we would normally expect that, in order to be fair, it has to be made clear that other services are participating. This should be done both on air and in any written rules, whenever the competition or its results are run or trailed.

### **Solutions and Methodology**

A cause of complaint has been that, at the end of a competition, the way in which the solution is reached ('methodology') has not been explained on air and, in some cases, the answer has not been given. As many competitions are cryptic, this leads some of the audience to doubt whether the solution given is correct and to question the legitimacy of the competition. This is often because the complainant cannot understand the methodology. A further concern expressed by complainants is that as many competitions have more than one possible solution, the broadcaster may change the answer while a competition is on air, preventing it being solved too early. Sufficient transparency is therefore necessary in order to ensure that competitions are both conducted fairly and seen to be conducted fairly, to avoid unnecessary audience concern.

- We recognise that the methodology of a competition may be commercially sensitive. Broadcasters may choose to outline it on air, but this is not a requirement to achieve fairness in competitions.
- However, where a competition is cryptic or ambiguous, or there appears to the audience to be more than one possible answer to a competition, broadcasters must, when requested by Ofcom, provide evidence that the competition has been run fairly. Broadcasters should be able to provide Ofcom with the correct answer and the methodology used to arrive at that answer, together with evidence that it could not have been changed after the competition started. For example, a broadcaster may choose, before a competition is run, to place its chosen methodology and/or answer with an independent professional third party (e.g. an auditor or solicitor).
- We recognise that competitions may be carried forward to another time/day. Appropriate transparency about this is important. However, where competitions form the essential feature of a programme (e.g. in the case of Call TV quiz services or similar) an audience should normally be able to expect the correct solution to be provided on air, with or without its associated methodology, when a competition ends.
- For a competition to be conducted fairly, we believe its correct solution should be reasonable (i.e. not unfairly obscure) and certain. This applies to all competitions, including those that Ofcom judges to be dependent to any extent on factual recall and/or the application of established protocol (e.g. accepted mathematical process). However difficult or cryptic the

competition itself, we would expect application of the methodology to produce only the correct solution. All methodologies should be clear, comprehensive and precise.

- If a methodology is re-used in any later but similar competition by a broadcaster, the instructions or questions given to viewers and listeners in the subsequent quizzes should not differ materially from those given to the audience when the methodology was used previously. It is expected that the audience shall not be led to believe that a different methodology applies in the later competitions. For example if a methodology is re-used, any instruction or question given to the audience in the first broadcast of the competition (e.g. “add all the numbers”) and the name of the competition should remain the same, and not be changed (e.g. “add all the numbers” to “solve the sum”). Equally, if the name of a quiz, and the instructions or questions issued to the audience, are repeated in a subsequent competition, and if the information the audience has to consider is in a similar format, the methodology should be the same.
- In order to conduct a competition fairly, an audience should not be misled by a broadcaster stating or implying that a competition is simple if it is actually difficult or cryptic.

### **Repeat Broadcasts**

- If a former live competition is re-run so that it is no longer possible for the audience to participate by ringing the number given on air then we would expect this to be made clear to the audience. On television, text stating “pre-recorded” is likely to be insufficient unless the phone line is also dead or the number on screen is also illegible. Broadcasters may also need to be aware of ICSTIS’ Code of Practice concerning this matter.

### **Winners**

- As best practice and to forestall audience concern, broadcasters may wish to consider listing the names of all winners, with their permission, on an appropriate website as soon as possible after their wins.

### **Rule 2.12 Subliminal Images**

If an image (however brief) can be seen by viewers then it is not subliminal.

### **Rule 2.13 Flashing Images**

Flashing images and/or patterns can cause seizures in people with photosensitive epilepsy. The Ofcom guidelines, based on scientific research, are intended to limit the incidences of seizures and a warning should only be used in place of the guidelines if editorially justified.

See attached Annex 1

## Annex 1

# Ofcom Guidance Note on Flashing Images and Regular Patterns in Television

### Re-issued as Ofcom Notes (25 July 2005)

Revised and re-issued by the ITC in July 2001

Editorial amendment June 2002

1. Flickering or intermittent images and certain types of regular pattern can cause problems for some viewers who have photosensitive epilepsy. These guidelines have been drawn up following consultation with leading medical opinion in this area with the aim of reducing the risk of exposure to potentially harmful stimuli.

2. Television is by nature a flickering medium. In Europe each transmitted picture is refreshed 50 times each second and interlaced scanning generates flicker 25 times each second. It is therefore impossible to eliminate the risk of television causing convulsions in viewers with photosensitive epilepsy. To reduce risk the following guidelines on visual content should be applied when flashing or regular patterns are clearly discernible in normal domestic viewing conditions. It should be noted that the level of any cumulative risk arising from successive sequences of 'potentially harmful' flashes over a prolonged period is unknown. If, as medical opinion suggests, the risk of seizures increases with the duration of flashing, broadcasters should note that it is possible that a sequence of flashing images lasting more than 5 seconds might constitute a risk even when it complies with the guidelines below.

3. **A potentially harmful flash** occurs when there is a pair of opposing changes in luminance (i.e., an increase in luminance followed by a decrease, or a decrease followed by an increase) of 20 candelas per square metre (cd.m<sup>-2</sup>) or more (see notes 1 and 2). This applies only when the screen luminance of the darker image is below 160 cd.m<sup>-2</sup>. Irrespective of luminance, a transition to or from a saturated red is also potentially harmful.

3.1.1. Isolated single, double, or triple flashes are acceptable, but a sequence of flashes is not permitted when both the following occur:

- i. the combined area of flashes occurring concurrently occupies more than one quarter of the displayed (see note 3) screen area; and
- ii. there are more than three flashes within any one-second period. For clarification, successive flashes for which the leading edges are separated by 9 frames or more are acceptable, irrespective of their brightness or screen area.

4. **Rapidly changing image sequences** (e.g. fast cuts) are provocative if they result in areas of the screen that flash, in which case the same constraints apply as for flashes.

5. A **potentially harmful regular pattern** contains clearly discernible stripes when there are more than five light-dark pairs of stripes in any orientation. The stripes may be parallel or radial, curved or straight, and may be formed by rows of repetitive elements such as polka dots. If the stripes change direction, oscillate, flash or reverse in contrast they are more likely to be harmful than if they are stationary. If the patterns obviously flow smoothly across, into, or out of the screen in one direction they are exempt from restriction.

5.1. Potentially harmful patterns are not permitted when either of the following two conditions apply:

- i. the stripes are stationary and the pattern occupies more than 40% of the displayed screen area; or
- ii. the stripes change direction, oscillate, flash, or reverse in contrast and the pattern occupies more than twenty five per cent of screen area; and in addition to either of the above two conditions applying, when
- iii. the screen luminance of the darker bars in the pattern is below 160 cd.m<sup>-2</sup> and differs from the lighter bars by 20 cd.m<sup>-2</sup> or more (see notes 1 and 2).

**Footnotes:**

1. Video waveform luminance is not a direct measure of display screen brightness. Not all domestic display devices have the same gamma characteristic, but a display with a gamma of 2.2 may be assumed for the purpose of determining electrical measurements made to check compliance with these guidelines (see appendix I).

2. For the purpose of measurements made to check compliance with these guidelines, pictures are assumed to be displayed in accordance with the 'home viewing environment' described in Recommendation ITU-R BT.500 in which peak white corresponds to a screen illumination of 200 cd.m<sup>-2</sup>.

3. It may be assumed that overscan on modern domestic television receiver displays will normally be in the range 3.5% ± 1% of the overall picture width or height (as indicated in EBU Technical recommendation R95-2000).

First issued as an ITC Guidance Note November 1994, first revised September 1999, revised and re-issued July 2001. Re-issued by Ofcom (date tbc)

**Further References**

Relevant Codes

The ITC Programme Code, *Autumn 1998, Section 7.3 revised September 1999, Section 1.12(iii) revised Spring 2001*

Ofcom Broadcasting Code, Harm and Offence, Section 2.10 (date tbc)

The ITC Advertising Standards Code, *September 2002*

External Publications

Harding, Graham F.A., & Jeavons Peter M. *Photosensitive Epilepsy (1994) ISBN: 0898683 02 6*

Harding, Graham F.A. *TV can be bad for your health, Nature Medicine Vol.4 No.3 March 1998*

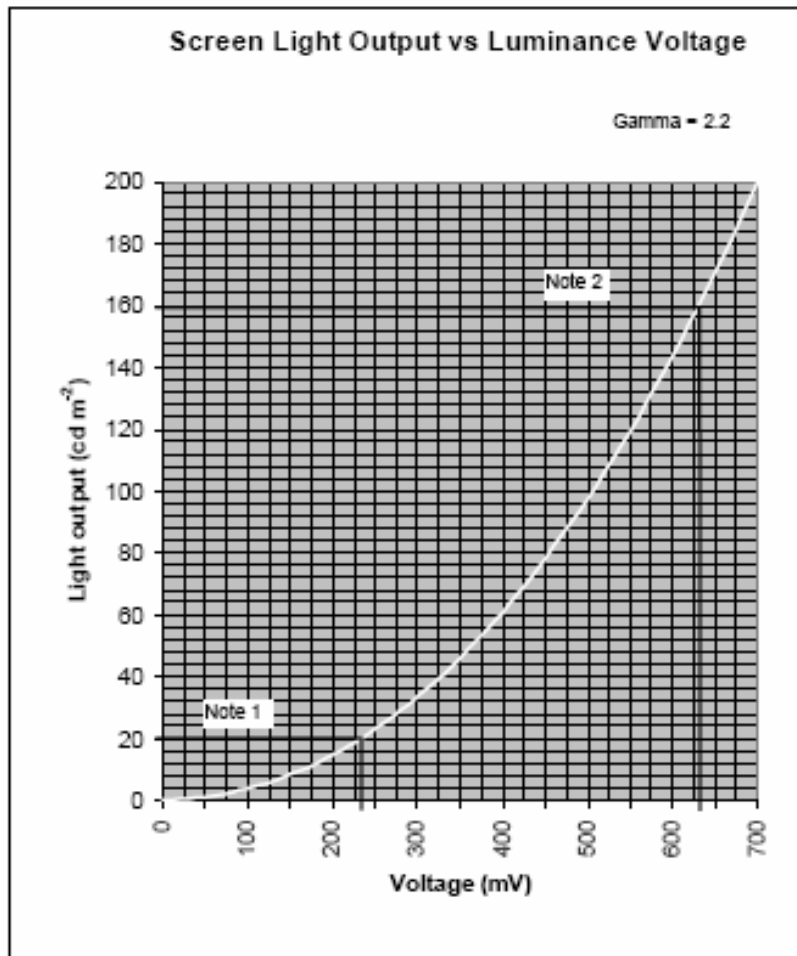
Wilkins, Arnold J. *Visual Stress (1995) ISBN 0 19 852174 X*

### **Ofcom Guidance Note on Flashing Images and Regular Patterns: Luminance Measurement**

Screen luminance may be measured using a hand-held spot photometer with a CIE characteristic designed for making measurements from a television screen. The display conditions are those of the 'home viewing environment' described in Recommendation ITU-R BT.500. For accurate results, the display brightness and contrast should first be set up using PLUGE (Rec. ITU-R BT. 814) with peak white corresponding to a screen illumination of 200 cd.m<sup>-2</sup>.

As an alternative, the following graph and table may be consulted if electrical measurements are more convenient. This shows the typical relationship between luminance (monochrome) voltage and the emitted light output of a television display.

There are measurement uncertainties associated with both methods. Nevertheless, flashing images or regular patterns described in this Guidance Note as being potentially harmful can be expected to be obviously discernible. Such potentially harmful images occur only rarely during the course of programme material with scenes that appear natural or represent real life; examples include photographers' flashlights or strobe lights in a disco. Part of the purpose of the Guidance Note is to assist programme producers to avoid inadvertently creating video effects that contain flashing images or patterns likely to be harmful.



Voltage (mV)	Light (cd/m <sup>2</sup> )
0	0.1
25	0.4
50	1.2
75	2.3
100	3.8
125	5.8
150	8.3
175	11.2
200	14.6
225	18.6
234	20.1
250	23
275	28
300	33.5
325	39.5
350	46.1
375	53.2
400	61
425	69.3
450	78.1
475	87.6
500	97.6
525	108.3
550	119.5
575	131.4
600	143.9
625	157
631	160
650	170.7
675	185
700	200

Notes:

1. A luminance voltage of 234 mV results in light output of 20.1 cd.m-2. If the **brighter** image of a flash or pattern is **above** this level, then it is potentially harmful if the light output between the darker and brighter images differs by 20 cd.m-2 or more.

2. A luminance voltage of 631 mV results in light output of 160 cd.m-2. If the **darker** image of a flash or pattern is **below** this level, then it is potentially harmful if the light output between the darker and brighter images differs by 20 cd.m-2 or more.