



THE BCCSA'S CODE OF CONDUCT FOR ONLINE CONTENT SERVICES FOR LICENSED BROADCASTERS

PREAMBLE

- a) *Section 54(1) of the Electronic Communications Act 2005 (“ECA”) provides that all broadcasting licensees must adhere to the prescribed Regulations regarding the Code of Conduct for Broadcasting Service Licensees issued in terms of section 54 of the ECA (“ICASA Code of Conduct”). However, section 54(3) will not apply to a broadcasting licensee if that broadcasting licensee is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a code of conduct enforced by that body by means of its own disciplinary mechanisms, and provided such code of conduct and disciplinary mechanisms are acceptable to the Authority.*
- b) *In addition to the above, section 18(6) of the Films and Publications Act 65 of 1996 (as amended) (“FPA”) recognizes that broadcasters who are subject to regulation by the Independent Communications Authority of South Africa (“ICASA”) shall, for the purposes of online streaming, be exempt from the provisions of the FPA in respect of classification of content*
- c) *The Broadcasting Complaints Commission of SA (“BCCSA”) was established by members of the National Association of Broadcasters (the “NAB”), which is a voluntary association of South African broadcasters, comprising licensed radio and television broadcasters, as well as entities and associates that operate in the sector.*
- d) *The current prescribed ICASA Code of Conduct and the BCCSA's Codes of Conduct for Free to Air Licensees and Subscription Broadcasting Service Licensees are not applicable for online content services for licensed broadcasters.*

- e) *Accordingly, the NAB has developed this Code of Conduct for Online Content Services provided by its members pursuant to section 54(3) of the ECA read together with section 18(6) of the FPA.*
- f) *NAB members provide broadcasting services to the public. Some NAB members also provide online content services.*
- g) *NAB members are concerned with the protection of users of their online content services and have therefore adopted this Code of Conduct to assist the public.*
- h) *This Code of Conduct relates to Online Content Services that are under the editorial control of NAB members. This Code of Conduct is administered by the BCCSA and Signatories to the Code and specific online content services that are bound by this Code of Conduct, are listed in Appendix A*
- i) *The procedures to be adhered to when making a complaint to the BCCSA in respect of this Code of Conduct are the Procedures of the BCCSA.*

1. THE CODE Definitions

1.1. In this Code, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the ECA has the meaning so assigned.

"Audience" means the viewers and/or listeners of an Online Content Service provided by a licensed broadcaster;

"Act" or the **"ECA"** means the Electronic Communications Act 36 of 2005, as amended;

"Child Pornography" means Child Pornography as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);

"Child" means a person under the age of 18 years, and **"Children"** shall have the same meaning;

"**Code**" means this Code of Conduct for Online Content Services for licensed broadcasters;

"**EPG**" means Electronic Programme Guide which are interactive menu-based systems or graphical user interfaces that provide users of digital television, radio and online media applications with search functionality, scheduling information for current and upcoming broadcast or simulcast online streaming programming, and/or facilitate user access to catchup services or online on-demand audio-visual library content using text, graphics, images or audio-visual content.

"**Films and Publications Act**" means the Film and Publications Act 65 of 1996, as amended;

"**ICASA Act**" means the Independent Communications Authority of South Africa Act 13 of 2000, as amended;

"**NAB**" means the National Association of Broadcasters of South Africa;

"**NAB Member / Member**" means a member of the NAB who pays an annual membership fee;

"**Signatory**" (or "**Signatories**") is an NAB member who has elected that its online content services will abide by this Code for Online Content Services;

"**Online Content Service**" means an on-demand streaming or downloading service provided by a Signatory, who is a broadcasting service licensed by the Independent Communications Authority of South Africa, which-

- a) is under the Signatory's editorial control;
- b) has the primary purpose of providing audio and /or video content, and which has similar characteristics to traditional broadcasting,
- c) is provided to the public or sections of the public, and
- d) is delivered to the end user of an online delivery medium, including the internet but does not include Social Media content or User Generated Content.

"**Sexual Conduct**" means:

- a) [male] genitals in a state of arousal or stimulation, real or simulated";
- b) undue display of genitals or of the anal region;
- c) rape;
- d) masturbation;
- e) bestiality;
- f) sexual intercourse [whether real or unintended] with a person or a human corpse, including anal or oral sexual intercourse;
- g) sexual contact involving the direct or indirect fondling or touching of the intimate parts of a body, including the breasts, anus, vagina, testicles or penis, with or without any object;
- h) the penetration of a vagina or anus with any object;
- i) oral genital contact; or
- j) oral anal contact.

“Social Media” means the various online technology tools and forms part of electronic communication via the internet, such as websites for social networking and micro blogging through which users create online communities to share information, ideas, personal messages and other content. Social Media content is not covered by this Code

“User Generated Content” means any content generated by third parties, including any written, visual, or audio content that is uploaded to a website, Social Media or app by third party users, which falls outside of the editorial control of the Signatory. User Generated Content is not covered by the Code;

2. Violence and Hate speech

- 2.1. The Signatory must not make available Online Content which, judged within context, sanctions, promotes or glamorizes violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.
- 2.2. The Signatory must not make available Online Content Which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence; or (c) the

advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

3. Exclusions

3.1. Clause 2 does not apply to:

3.1.1. Online Content which, judged within context, amounts to bona fide scientific, documentary, dramatic, artistic, or religious content.

3.1.2. Online Content which amounts to a discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or

3.1.3. Online Content which amounts to a bona fide discussion, argument or opinion on a matter of public interest.

4. Children

4.1. The Signatory must exercise particular caution, as provided for in further detail below, in the depiction of violence in online content specifically directed at Children.

4.2. Online Content specifically directed at Children and containing real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.

4.3. Animated Online Content for Children, while accepted as a stylised form of storytelling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.

4.4. Online Content specifically directed at Children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.

4.5. Online Content specifically directed at Children must with reasonable care deal with themes which could influence Children to imitate acts which they see on screen or hear about, including, but not limited to, dangerous acts involving items such as the use of plastic bags as toys, the use of matches or the use of dangerous household objects as toys.

4.6. Online Content specifically directed at Children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.

- 4.7. Online Content specifically directed at Children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.
- 4.8. Online Content specifically directed at Children must not contain frightening or otherwise excessive special effects not required by the story line.
- 4.9. Offensive language, including profanity and other religiously insensitive material, must not be included in content specially designed for Children.

5. Sexual Conduct

- 5.1. The Signatory must not make Online Content available which, judged within context, contains a scene or scenes, simulated or real, of any of the following:
 - 5.1.1. Child Pornography;
 - 5.1.2. bestiality;
 - 5.1.3. Sexual Conduct which degrades a person in the sense that it advocates a particular form of hatred based on gender and which constitutes incitement to cause harm, or which violates the right to human dignity of any person;
 - 5.1.4. explicit Sexual Conduct;
 - 5.1.5. explicit extreme violence or the explicit effects thereof; or
 - 5.1.6. explicit infliction of domestic violence.
- 5.2. Sub-clause 5(1) shall not be applicable to bona fide scientific, documentary, dramatic or artistic material which, judged within context, is of such a nature.

6. User Advisories

- 6.1. Where Online Content contains violence, sex, nudity and/or offensive language the Signatory must, where possible, provide advisory assistance including, when applicable, guidelines as to age. The advisory may be a prior audio or visual warning, an advisory on the EPG listing, or a warning within the content itself.
- 6.2. The following advisory age system may be used: 10, 13, 16 and 18. The following symbols may be used in accordance with the relevant Online Content: V (violence), L (language), N (nudity), S (sex), PG (parental guidance), D (drugs/substance abuse), SV (sexual

violence) and H (horror).

7. Classification by Films and Publications Board

- 7.1. Where a Film and Publication Board classification for a film exists in terms of the Films and Publications Act, such classification may be used as a guideline for an advisory to the film.
- 7.2. No film which is refused classification, or which carries an XX classification in terms of the Films and Publications Act may be provided.

8. Parental control mechanisms

- 8.1. If a Signatory's Online Content Service is able to offer a secure mechanism to block a programme, based on the classification of such programme, a Signatory should inform its users of the parental control mechanism available and make a parental control guide available to users on how to use the parental control mechanism. A copy of the parental control guide should be made available on the Signatory's website.

9. News

- 9.1. News must be reported truthfully, accurately and fairly.
- 9.2. News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:
 - 9.2.1. Distortion, exaggeration or misrepresentation;
 - 9.2.2. Material omissions; or
 - 9.2.3. Summarisation.
- 9.3. Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact, and such fact must be stated fairly with reasonable regard to context and importance.
- 9.4. Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case.
- 9.5. Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified. Where such verification is not practicable, that fact must be mentioned in the report.

- 9.6. Where it subsequently appears that a report was incorrect in a material respect, it must be rectified forthwith, without reservation or delay. The rectification must be presented with such a degree of prominence and timing as in the circumstances may be adequate and fair so as to readily attract attention.
- 9.7. The identity of rape victims and other victims of sexual violence must not be divulged, whether as part of news or not, without the prior valid consent of the victim concerned.

10. Comment

- 10.1. In making available comment on and criticism of any actions or events of public importance in their Online Content, a Signatory must make reasonable efforts to ensure that comment must be an honest expression of opinion and must be presented in such a manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.
- 10.2. Where a person has stated that they are not available for comment or such a person could not reasonably be reached, this must be stated.

11. Controversial Issues of Public Importance

- 11.1. In making available Online Content in which a controversial issue of public importance is discussed, a Signatory must make reasonable efforts to fairly present opposing points of view either in the same Online Content or in other, related Online Content.
- 11.2. A person whose views are to be criticised in Online Content concerning a controversial issue of public importance must be given the right to reply to such criticism in the same or in related Online Content.

12. Privacy, Dignity and Reputation

- 12.1. The Signatory must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.
- 12.2. In the protection of privacy, dignity and reputation special weight must be afforded to South African cultural customs concerning the privacy and dignity of people who are bereaved and their respect for those who have passed away.

12.3. In the protection of privacy, dignity and reputation special weight must be afforded to the privacy, dignity and reputation of Children, the aged and the physically and mentally disabled.

13. Publication of the Code

13.1. Each Signatory shall take steps to publish this Code and the complaints procedure.

14. Interpretation and amendment of the Code

14.1. This Code of Conduct is subject to interpretation in the light of changing circumstances.

14.2 This Code of Conduct may be amended in accordance with clause 19 of the BCCSA .
