

Programme Proposals

A Code of Practice

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To encourage the confidence of Originators and the free flow of material within the film and broadcasting sector of Britain's creative industries, the following Code of Practice is proposed for the receipt and acknowledgement of Creative Material.

In adopting this Code it is recognised that similar, if not identical, Creative Material may be submitted to a Receiver by different Originators at different times. This Code does not restrict the freedom of Receivers to select the best Creative Material from the best talent in accordance with commissioning and scheduling priorities.

Scope

This Code of Practice applies to:

- (i) any professional person or company not employed by a Receiver who originates Creative Material and sends it to a Receiver; and
- (ii) any professional person or company who receives Creative Material from another party.

Definitions

Creative Material

Creative Material means proposals (which may include formats, treatments, scripts, outlines, development documents, tender submissions, storylines, artwork, and synopses) as the same comprise and are submitted as proposals for radio and television programmes.

It is not intended to cover unformulated ideas.

An Originator

An Originator is a professional person or company who originates Creative Material, and who wishes to offer such material to a

Receiver. A professional person or company shall include those belonging to a relevant Trade Union, or trade body or other member organisation of the Alliance for the Protection of Copyright.

A Receiver

Usually Receivers will be the principal UK broadcasters (BBC, C4, C5 and ITV companies and/or the ITV Network Centre); but Receivers shall include film producers, independent producers and others and/or the Network Centre who have adopted this Code of Practice for the receipt of Creative Material.

The Code

The principal objective of this Code is to support Creative Material being treated, and being seen to be treated, in a fair and honest manner by both the Originator and a Receiver of such material.

This Code recognises that similar, if not identical, Creative Material will be submitted to a Receiver by different Originators, sometimes simultaneously, sometimes not. In dealing with this, Receivers must respect the confidentiality of Creative Material submitted to them but must be free to select the best Creative Material from the best talent, in accordance with commissioning and scheduling priorities.

To that end, Originators of Creative Material should, as far as practicable, understand the difficulties which Receivers experience, and submit Creative Material which, whilst it may be summarised, should be in as much detail as possible, in writing or some other appropriate form to maximise fair and honest treatment.

Likewise, Receivers of Creative Material should understand the importance which Originators attach to the value of their material, and ensure there are simple and transparent systems which demonstrate that their material is treated in a fair and honest way.

Procedures

By the Originator

When presenting Creative Material to a Receiver, the Originator should, where possible, ensure the following:

- 1 that Creative Material submitted to a Receiver is stated as being submitted in confidence;
- 2 that the Originator retains an exact copy of the Creative Material submitted, and written details of the date of

submission, and the name of the person to whom it was submitted. An Originator may also wish to formally register the documentation at the time of the submission with a registration or legal representative. However, registration is not a condition of protection under the Code of Practice;

- 3 that Creative Material is in writing and its distinctive and original features are clearly identified.

By the Receiver

By adopting this Code, a Receiver accepts that it will observe procedures which ensure that it observes due confidentiality of Creative Material until any superseding agreement concerning the use of Creative Material is reached between a Receiver and an Originator. In particular, where a Receiver originates its own Creative Material, a Receiver should establish internal procedures which distinguish the source of the origination of such Creative Material.

This will be especially difficult for in-house strands which use Creative Material from a variety of Originators, but which is assessed by a single Commissioning Editor

or editorial representative. In these circumstances, the Receiver should be particularly sensitive to the need to deal fairly and quickly with submissions, to avoid any impression of the Receiver failing to recognise the origination of Creative Material submitted by independent Originators.

Although speedy acknowledgement of, and action on, Creative Material is obviously to be encouraged, that is not a purpose of the Code. Speed of acknowledgement is of importance only in so far as it provides evidence that the Creative Material to which this Code refers was submitted by an Originator and received by a Receiver.

When receiving Creative Material, the Receiver should, where possible, ensure:

- 1 that confidentiality will be observed by the Receiver in the receipt and appropriate internal review of Creative Material. For this purpose Originators recognise that in the normal course of business Creative Material may need to be copied on a restricted and confidential basis within the organisation of a Receiver to those responsible for assessing or approving commissioning work or services based upon Creative Material (Relevant Individuals). Circulation to Relevant Individuals will therefore be acceptable practice, unless other procedures are exceptionally agreed on a case by case basis;
- 2 that all Creative Material is logged on receipt, by reference to title, date, Receiver's name and a brief indicative description of the nature of the material, as soon as practicable;
- 3 that the Receiver thereafter provides a fuller response indicating rejection or a wish to continue to consider the Creative Material (within such reasonable time frame as individual Receivers may publish from time to time) unless the Creative Material is submitted in response to particular tender, when the published timetable for dealing with relevant submissions will apply.

- 4 If Creative Material is rejected, the Receiver will upon request use reasonable endeavours to return any and all original materials supplied by the Originator.

In-house strands

Where a Receiver has to assess Creative Material submitted by one or more Originators alongside internally originated Creative Material, special care should be taken concerning perceived conflicts of interest, appropriately anticipating any enquiries to support application of the Disputes Procedure of this Code.

Development

Where a Receiver commissions an Originator to undertake further development work, specific contractual terms will be agreed to deal with the ownership of Creative Material and the development work. The terms of any such agreement shall then supersede the relevance of this Code concerning any further use of the relevant Creative Material.

Verbal submissions

Creative Material which is proffered to a Receiver verbally will not be within the scope of the Code.

Disputes Procedure

A major objective of this Code is to minimise the likelihood of disputes concerning ownership of Creative Material.

If an Originator has a complaint concerning unauthorised use of Creative Material submitted to a Receiver under the provisions of this Code, an Originator and Receiver will initially attempt to resolve any disagreement through exchange of documentation and discussion.

In the absence of such resolution the Originator will either directly or (when appropriate) through the relevant executive

or official of the Originator's trade association or union, contact the appropriate senior person or persons nominated by the Receiver to obtain clarification of the basis upon which the Originator's Creative Material was received, logged and responded to as provided by this Code.

It is hoped that any dispute will be resolved at this stage. However, beyond the above procedure this Code shall not otherwise restrict the legal rights of an Originator or Receiver relating to matters to which the dispute relates.

Review

The terms of this Code as revised to include BBC Radio shall be applied by signatories with effect from 1 September 2001.

Representatives of the signatories shall convene a meeting not less than once in each calendar year to assess the implementation of the provisions of the Code.

Schedule

Television Programme Proposals – Code of Practice

Nominated senior representatives for
Receivers who are signatories to the Code

British Broadcasting Corporation

Sara Geater – Director of Rights &
Business Affairs

ITV Network Limited

Simon Johnson – Director of Rights &
Business Affairs

Channel Four Television Corporation

Karen Brown – Deputy Director of
Programmes

Channel 5 Broadcasting Limited

Colin Campbell – Director of Legal and
Business Affairs

Signatory to the Code for the Alliance
for the Protection of Copyright

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