[GB] Regulator Publishes Guidance on Programme Commissioning from Independent Producers

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The British Culture secretary had announced, at the beginning of 2003, that new Codes of Practice should govern the relations between the major broadcasters (including the BBC and the commercial broadcasters) and independent producers (see IRIS 2003-3: 12). The Independent Television Commission, which regulates commercial broadcasting, has now issued guidance on the content of the Codes. The Codes will be developed by the broadcasters themselves, and submitted by the end of July 2003; approval will rest with the new Office of Communications (Ofcom), which will take over the Commission's responsibilities later in the year when the Communications Bill, currently before Parliament, has become law. The Bill also sets out relevant principles for the Codes, and provides that all licences for public service channels shall require that such codes be in place.

The guidance states that the Codes should secure a clear and transparent process for commissioning: for example, setting out a broad timetable and responsibilities within the broadcaster for dealing with the process. They should describe how an adequate separation of responsibilities for programme commissioning from the management and operation of in-house production activities would be secured. The Codes should also define a minimum of primary rights that will be acquired from producers, the assumption being that the latter should retain rights in their programmes unless these are explicitly sold to the broadcaster. Primary rights should be defined as those necessary for a broadcaster to support its core schedules (for example first-run transmission plus a specified number of repeats) and to maintain and develop broadcasting across its core channels. Bundling of primary rights and other rights should not take place without agreement between both parties. Indicative tariffs for the acquisition of primary rights should be drawn up by each broadcaster. The Codes may contain proposals for development funding and cash flowing of productions, but these should not be made conditional on extended rights deals.

Monitoring of the applications of the Codes will be by Ofcom, though it will not be the final arbiter of disputes arising under them, independent arbitration being envisaged instead.

"ITC Publishes Guidance on Codes of Practice for Programme Commissioning from Independent Producers", Independent Television

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Commission News Release 37/03, 2 June 2003

http://www.itc.org.uk/latest_news/press_releases/release.asp?release_id=712

Guidelines for Broadcasters in Drafting Codes of Practice for Commissioning Programmes from Independent Suppliers, Independent Television Commission, 30 May 2003

http://www.itc.org.uk/uploads/GUIDELINES_FOR_BROADCASTERS_IN_DRAFTING_CODES_OF_PRACTICE_FOR_COMMISSIONING_PROGRAMMES_FROM_INDEPENDENT_SUPPLIERS.doc

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