[GB] Regulator Approves Codes of Practice for Commissioning from Independent Producers

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Tony Prosser
University of Bristol Law School

The Communications Act 2002 (section 285) requires that the public service broadcasters (including the BBC under ss. 198 and 203) draw up and apply codes of practice governing the commissioning of independent productions for broadcasting on their networks, in accordance with general guidance issued by the Office of Communications (Ofcom), the new communications regulator (for background see IRIS 2003-3: 12). Ofcom has now approved the codes developed by the BBC, ITV, Channel 4, Five and GMTV.

The guidance is designed to provide a standard framework for the codes. It requires that the codes set out a clear and transparent process for commissioning. A key principle is that producers should retain rights in their programmes unless these are explicitly sold to broadcasters; thus the codes must define a minimum set of "primary rights" to be acquired for the public service channels, and confirm that negotiations for these will be separate from those for secondary and tertiary rights. There should be no bundling of rights unless this is agreed by both parties. Primary rights may however include certain new media rights, for example simulcast Internet streaming.

A list of indicative tariffs should be developed and the methodology used (though not necessarily the tariffs themselves) published. Provision should also be made for commissioning outside the tariff system.

The standard duration of primary rights should be defined in each code with a typical licence period of not more than five years. Broadcasters should not seek to include rights in perpetuity as a matter of course.

The codes are to include a procedure for joint review by the broadcaster and by Ofcom, and regular reports to Ofcom will be required on the number and nature of commissions and the duration of rights. Ofcom will not act as arbiter in disputes about the application of the codes, but provision should be made for independent arbitration.

Ofcom, Guidelines for Broadcasters in Drafting Codes of Practice for Commissioning Programmes from Independent Suppliers

http://www.ofcom.org.uk/codes_guidelines/broadcasting/cop_prog_ind/?a=87101

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