



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

BAI CODE OF PROGRAMME STANDARDS



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FOREWORD

Developing a Code of Programme Standards is a challenging task, not least because there is no absolute, universally shared sense of what standards are or should be observed. Moreover, there is the concern that such a code could become a litany of prohibitions that ultimately constrain effective broadcasting. And the concepts of harm and offence that are embedded in the legislation are complex, subtle and distinctly different one from the other.

But broadcasting is not a free for all. There are standards. There are lines that virtually all in the audience will not want to see crossed.

This Code, as the Broadcasting Authority of Ireland (BAI) sees it, is a service to broadcasters and audiences alike. It seeks to offer a framework that is set firmly within the statutory context that recognises the important service that broadcasting provides to the public that does not attempt to circumscribe the reasonable editorial freedom of any broadcaster. But it recognises also the entitlement of the audience to have its deeply held convictions respected, its complexity and diversity recognised and reflected and those who are vulnerable protected.

And it provides a yardstick against which the audience can evaluate broadcast output and a clear basis on which to found a complaint if it is believed that a broadcaster has failed to observe the requirements of the law or of this Code. It sets out, therefore, to provide clear principles that should be observed and a set

of requirements (not exhaustive) that must be discharged. Through these, broadcasters, listeners and viewers have a path clearly delineated.

Harm and offence are important issues for the law and they are complex issues for the regulator. It would be an unconscionable restriction on the freedom of expression and the vitality of broadcasting if nothing likely to offend anybody could ever be broadcast. But that is neither what the law requires, nor what this Code prescribes. Not only is there no right not to be offended, it will be unavoidable that a programme service that captures the full richness of life and that seeks to address the entire range of topics of concern to the audience will contain material which will be a source of offence to some. There is an obligation on broadcasters to be provocative and to contribute to the awareness that a society has of itself, of its dynamic and changing character and of its place in the modern world.

That is why this Code is not simply a list of prescriptions or prohibitions. It prefers to capture a sense of the appropriate than to seek agreement on what constitutes taste. It acknowledges the importance of tone and context in how an audience will respond to programmes. It knows that there are types of content that more typically offend but knows also that it is not necessarily helpful to attempt to have a static or pre-determined view of what taste will be at any given time.

Harm, however, as the Code outlines, is altogether different. It is right and proper to ensure that no one in the audience is harmed by what is broadcast. There is a right not to be harmed. The concerns of children are of serious significance in this context and are specifically noted in the Code, as in the Broadcasting Act 2009 (“the Act”) and the Audiovisual Media Services Directive 2010/13/EU (“the Directive”).

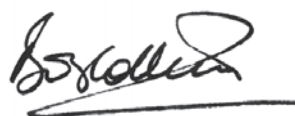
The Act juxtaposes the portrayal of violence and sexual conduct in the same sentence. But that is not to establish a moral equivalence between them. Different judgments must be made in their regard.

There will be times when programme content will be perceived to cross a threshold of acceptability and where editorial intervention should prevent its transmission. The freedom of expression is not absolute and does not include the freedom to defame or unfairly to impugn the character and good name of individuals. Where such content is broadcast, it is important that redress is available. It is to be a source of that redress that the Compliance Committee, a statutory committee of the Authority, exists.

The public interest is of crucial concern to the Broadcasting Authority of Ireland. It is the foundation of much of what the law contains and of the BAI’s approach to its work. But there can be circumstances in which that purpose can be invoked in ways that differ from our approach. It may be useful, therefore, to clarify what we mean. In this Code, the term public interest is used in a sense that facilitates and not one that

restricts. It connotes the genuine interests of citizens and others who live in this state; their capacity fully to understand the way in which public life is conducted; and their entitlement to the fullest range of information to assist them in the choices and decisions they will make in their lives and in the conduct of our democracy.

Much of what the Code provides is already reflected in the way responsible broadcasters approach their important work. In their exercise of their editorial judgments, for example, they will be sensitive to the values of the community; they will respect the watershed; they will appreciate the qualitatively different audience profile that is available during school holidays; and they will schedule sensitively. What the BAI hopes this Code will do is encourage the highest possible standards in the service provided to the audience and that its principles and linked requirements will both set the approach that broadcasters should take and offer reassurance to the audience that its interests are supported and protected.



Bob Collins
Chairperson (2009–2014)
Broadcasting Authority of Ireland

INTRODUCTION

LEGISLATIVE BASIS

The Broadcasting Authority of Ireland (“BAI”) prepares and publishes codes of practice for broadcasters, as required by law. This Code gives expression to the statute, specifically to the requirements of sections 42(2) (c), (d), (f), (i) and (j) of the Broadcasting Act 2009 (“the Act”).

LEGISLATION	BROADCASTING CODES SHALL PROVIDE:	BAI CODE
Section 42(2)(a)	all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster’s own views,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(b)	the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster’s own views,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs
Section 42(2)(c)	anything being likely to promote or incite to, crime, or as tending to undermine the authority of the State, is not broadcast by a broadcaster,	Code of Programme Standards
Section 42(2)(d)	in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon,	Code of Programme Standards

Cont. →

LEGISLATION	BROADCASTING CODES SHALL PROVIDE:	BAI CODE
Section 42(2)(e)	a broadcaster does not, in the allocation of time for transmitting party political broadcasts, give an unfair preference to any political party,	Code of Fairness, Impartiality and Objectivity in News and Current Affairs and Election and Referenda Guidelines
Section 42(2)(f)	in respect of programme material broadcast by a broadcaster that audiences are protected from harmful or offensive material, in particular, that programme material in respect of the portrayal of violence and sexual conduct, shall be presented by a broadcaster – (i) with due sensitivity to the convictions or feelings of the audience, and (ii) with due regard to the impact of such programming on the physical, mental or moral development of children,	Code of Programme Standards
Section 42(2)(g)	advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other such activities which relate to matters likely to be of direct or indirect interest to children, must protect the interests of children having particular regard to the general public health interests of children,	Children’s Commercial Communications Code
Section 42(2)(h)	advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within paragraph (g), must protect the interests of the audience,	General Commercial Communications Code

Cont. →

LEGISLATION	BROADCASTING CODES SHALL PROVIDE:	BAI CODE
Section 42(2)(i)	the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation, protects the interests of the audience, and	Code of Programme Standards
Section 42(2)(j)	for the matters to be provided for by Chapters IIA, IV and V of the Council Directive. ¹	Code of Programme Standards, General Commercial Communications Code, Children’s Commercial Communications Code, BAI Rules on Advertising and Teleshopping

¹ ‘Council Directive’ means Council Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 and by Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007. A simplified and codified version of these Directives was introduced in 2010: the Audiovisual Media Services Directive 2010/13/EU.

In preparing or revising a broadcasting code, the Authority must have regard to each of the following matters, further to the provisions of Section 42(3) of the Act:

- (a) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description,
- b) the likely size and composition of the potential audience for programmes included in television and sound broadcasting services generally, or in television and sound broadcasting services of a particular description,
- (c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience,

d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content,

(e) the desirability of securing that the content of a broadcasting service identifies when there is a change affecting the nature of the service that is being watched or listened to and, in particular, a change that is relevant to the application of the codes set under this section, and

(f) the desirability of maintaining the independence of editorial control over programme content.

These statutory provisions are given practical effect in a number of codes operated by the BAI. The provisions highlighted in the above table are covered by this Code of Programme Standards. All of the BAI codes can be found at www.bai.ie.

THE OBJECTIVES OF THIS CODE

- To promote responsible broadcasting in which access to information, entertainment and education and a range of views are enhanced and undue offence and harm are reduced.
- To acknowledge the diversity of tastes and interests that exist in contemporary Irish society and to encourage and facilitate broadcasting that caters for this diversity.
- To advise viewers and listeners on the standards they can expect from broadcasting services and to enable viewers and listeners to hold broadcasters to account in the event that they believe that a broadcaster has behaved irresponsibly.
- To provide guidance to broadcasters in relation to matters falling within the scope of the codes.

THE RIGHT TO COMPLAIN

The Code is intended to help viewers and listeners who believe that they have a legitimate complaint about a broadcast and who wish to make a complaint.

It explains how the BAI may assess a complaint. The intention is to make it as easy as possible to have your complaint considered.

HOW TO COMPLY WITH THIS CODE

- Broadcasters are required to comply with all seven principles in this Code.
- The principles are indivisible, that is, all programme material must conform to all of the principles.
- Each principle has a list of non exhaustive requirements which broadcasters must discharge. These requirements help viewers and listeners to understand how the principle may be fulfilled.

HOW TO MAKE A COMPLAINT

- Viewers and listeners who believe programme material has not complied with the principles and requirements of this Code are entitled to make a complaint. Complaints should be made, in the first instance, to the broadcaster.
- You should identify the relevant programme broadcast and explain what it is about the broadcast that has led you to make a complaint. It is important to set out clearly the grounds of your complaint or why you believe the programme material does not comply with one or more of the principles of this Code and/or the legislative provisions set out above.
- Your complaint should reference at least one of the principles.
- Each broadcaster is required to consider complaints in line with its Code of Practice for Complaints Handling and you should refer to the broadcaster's Code of Practice when making your complaint to the broadcaster. The Code of Practice should explain how a broadcaster will consider and assess your complaint.

HOW COMPLAINTS WILL BE ASSESSED BY THE BAI

In circumstances where your complaint has not been responded to by the broadcaster or you are not satisfied with the response, you may refer your complaint to the BAI. The BAI will consider the programme material complained of in whole and in context with reference to:

- The matters identified in the complaint;
- The seven principles of this Code and the requirements of each of the principles;
- The provisions of the Broadcasting Act 2009;
- The provisions of the Audiovisual Media Services Directive 2010/13/EU; and,
- The procedures, practices and policies of the BAI.

The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

Further information on the complaints process can be found on the BAI's website www.bai.ie or by telephone on 01 6441200.

SCOPE AND JURISDICTION

This Code shall apply to all programme material broadcast by broadcasters within the jurisdiction of Ireland. It does not apply to commercial communications, such as advertising, programme sponsorship or teleshopping or to complaints about fairness, objectivity and impartiality in news and current affairs content. It does not apply to other services commonly received in this State, but licensed in the United Kingdom or other jurisdictions.

The term 'broadcaster' is understood in the context of the definition provided in the Broadcasting Act 2009, which is as follows:

"Broadcaster means a person who supplies a compilation of programme material for the purpose of its being transmitted, relayed or distributed as a broadcasting service (whether than person transmits, relays or distributes that material as such a service or not)."

EFFECTIVE DATE

This Code comes into effect on the 1st day of March 2015.

CODE OF PROGRAMME STANDARDS PRINCIPLES

There are seven guiding principles underpinning the Code of Programme Standards and against which all complaints will be assessed. These principles are:

- | | | | |
|---|---------------------------------|---|---|
| 1 | RESPECT FOR COMMUNITY STANDARDS | 5 | RESPECT FOR PERSONS AND GROUPS IN SOCIETY |
| 2 | IMPORTANCE OF CONTEXT | 6 | PROTECTION OF THE PUBLIC INTEREST |
| 3 | PROTECTION FROM HARM | 7 | RESPECT FOR PRIVACY |
| 4 | PROTECTION OF CHILDREN | | |

THE DISTINCTION BETWEEN HARM AND OFFENCE

In requiring the BAI to draw up this Code, the Act talks about harm and offence. There is an important distinction to be made between both. Those matters which cause offence can, and frequently do, differ from person to person and are largely subjective in their nature. Acknowledging this, there can be no guarantee that programme material will be free from offence. There is no right not to be offended and, for broadcasters, it is to be expected that, in fulfilling their duty to provide a diverse range of programming that caters to a diverse audience, there will be programming that causes offence to some members of the audience. The Code responds to offence in two ways. First, it aims to ensure that the viewer and listener are equipped with sufficient information to make an informed choice as to what they listen to or view. Broadcasters guide viewers and listeners by providing pre-warnings and by scheduling programming according to audience expectations of that type of content or of a particular channel or service. Second, the Code also guards against undue offence which is programme material that, taking into account contextual factors such as editorial justification and public interest, could still be regarded as having crossed a line that has resulted in the viewer or listener being unduly offended.

Harm is less subjective. It is something that is not as dependent on the subjective views that each person brings to programmes that they listen to or view. Harmful material is material that has an 'effect' - content that causes mental, psychological or physical harm. Individuals should not be harmed by programme material and the Code aims to prevent harm to viewers and listeners. While acknowledging that these are two distinct concepts, the Code also accepts that offence can become harmful in certain circumstances.

Principle 1

RESPECT FOR COMMUNITY STANDARDS

There are general community standards that broadcasters must take into account when making programmes. These standards relate to a range of issues covered in programme material, including attitudes to specific language terms, the use of violent imagery and sexual content. Broadcasters are required to consider these standards with reference to the other principles of this Code. This principle recognises that such standards are ever evolving and broadcasting must be facilitated in representing the rich diversity, plurality and realities of contemporary Irish society. This may sometimes involve making programmes that may cause offence to viewers and listeners but are justified for creative, editorial or other reasons.

This principle acknowledges the importance of editorial independence and freedom and the entitlement of audiences to a diverse range of programming.

In fulfilment of Principle 1, broadcasters shall:

- Take due care in broadcasting depictions and/or descriptions of violence in programme material. Broadcasters shall have due regard to the appropriateness of and/or justification for, the inclusion of violent content in programme material having regard to all of the principles of the Code.
- Take due care in broadcasting depictions and/or descriptions of sexual content in programme material. Broadcasters shall have due regard to the appropriateness of, and/or justification for, the inclusion of sexual content in programme material having regard to all of the principles of the Code.
- Have due regard to the appropriateness of, and/or justification for, the inclusion of coarse and/or offensive language in programming.
- Be alert to, and guard against, the use of coarse and/or offensive language in live programming and, where such incidents occur, take timely steps to minimise any offence caused, such as, acknowledging, clarifying and/or apologising for the language used.

Principle 2

IMPORTANCE OF CONTEXT

Harm or offence may be caused solely by the programme material itself or by virtue of the context in which programme material is viewed or heard or because the material is not in line with the audience's expectations. Broadcasters show due care for their audiences by taking into account a range of contextual factors which can influence the viewer or listener's perception of programme material and, hence, the degree of harm or offence that can occur. Such factors include:

- The time at which a programme is broadcast;
- The type of programme (i.e. content, genre, live, pre-recorded or repeat);
- The likely expectations of the audience as to the nature of the particular programme or broadcast service;
- The use of audience information and guidance and the degree to which the nature of the content was brought to the attention of the audience in advance (by means of an acoustic or other warning or through the inclusion of a visual symbol in the case of television programming) to allow a viewer or listener to make an informed choice;
- The likelihood of persons who are unaware of the nature of the content being unintentionally exposed, by their own actions, to that content;
- The type of channel or service on which the programme material was broadcast;
- Whether the inclusion of the programme material complained of was editorially justified; and
- The likely size and composition of the audience for that programme material.

In fulfilment of Principle 2, broadcasters shall:

- Schedule appropriately, taking into account, amongst other things, the nature of the programme material, the likely age range of the audience, the nature of the broadcast service, the particular programme and the time of day when children are likely to be watching or listening to programme material and, on television services, the use of the watershed, which operates after 21.00.
- Have due regard to the established audience expectations of a broadcasting service and to the consequences of any intentional departure from the usual nature of the service.

- In live programming, take timely corrective action where unplanned content is likely to have caused offence. Such action may be to acknowledge, clarify and/or apologise for such content.
- Use prior warnings and/or include a visual symbol where programme material is likely to offend or cause distress to a significant number of viewers.
- Use an evaluative or descriptive classification system for programme material, where possible.
- Provide appropriate help line contact details for the viewer or listener, where relevant.
- Ensure all audience information and guidance mechanisms are provided in a manner which is clearly audible for radio audiences and clearly visible and audible for television audiences.
- Appropriately promote its audience information and guidance mechanisms.

Principle 3

PROTECTION FROM HARM

Broadcasting can be a force for public good. In enriching people's lives through entertainment, information or other programming, broadcasters must be free to make programmes that may be provocative or deal with sensitive issues. However, broadcasters must take due care to ensure that audiences are not exposed to harmful content and must provide adequate information to audiences to allow them to make informed choices about what they listen to and watch.

This principle recognises that there are some viewers and listeners who, by virtue of their age, particular circumstances or vulnerability, may be in need of special consideration.

Individual viewers and listeners may require support mechanisms or further information/guidance where they are exposed to content with which they identify strongly by virtue of their own personal circumstances or experiences and that may cause them distress. Some people require protection from programme material that can cause a physical reaction, for example, material that affects those with photo sensitive epilepsy or those who are susceptible to hypnosis. Some viewers and listeners may require protection from content that purports to be one thing when it is another, for example, something seemingly factual that is actually fictional or controversial.

In fulfilment of Principle 3, broadcasters shall:

- Take due care when broadcasting programme material containing characters, actions and personal circumstances with which audiences may identify and which can cause distress, particularly in relation to content such as sexual violence, self harm or suicide, reconstructions of factual events and archive footage. Programme material of this nature shall be accompanied by some form of audience information or guidance, such as prior warnings and help line contact details.
- Not encourage or favourably present the abuse of drugs, alcohol, or solvents or the use of illegal drugs. Depictions and/or descriptions of detailed methods and techniques for administering illegal drugs must have strong editorial justification for their inclusion.
- Not broadcast material that encourages people to imitate acts which are damaging to the health and safety of themselves or others or grossly prejudicial to the protection of the environment.

- Take due care when broadcasting programme material that includes the simulation of news. Simulated news (for example in drama or in documentaries) must be broadcast in such a way that there is no reasonable possibility of the audience being misled into believing that they are listening to, or watching, actual news.
- Treat demonstrations of exorcism, the occult, the paranormal, divination (including fortune telling) or practices relating to any of these that purport, or may be thought to be real, with due care. When such demonstrations are for entertainment purposes, this must be made clear to the audience. Such demonstrations, whether purporting to be real or for entertainment purposes, must not contain life changing advice directed at an individual upon which they may reasonably be expected to act or rely. This does not apply to demonstrations which feature in films, drama or other fictional programming.
- Take due care with regard to the manner in which hypnosis is conducted during a programme.
- Provide prior warnings, as appropriate, for viewers with photo sensitive epilepsy in a manner which is clearly audible and visible.

Principle 4

PROTECTION OF CHILDREN

Children are viewers and listeners with particular needs and it is expected that broadcasters will respond to the specific needs of children as audience members and protect them from material that is unsuitable for them. This principle encourages broadcasters to respond to the diversity of children's experience and to offer them programmes that have relevance for them. This principle further requires that children are not exposed to programming that would seriously impair their moral, mental and physical development, in particular, programmes involving pornography or gratuitous violence. Broadcasters share a responsibility with parents and guardians for what children listen to and watch and in protecting children from exposure to inappropriate and harmful programme material.

Under the Broadcasting Act 2009, children are defined as persons under the age of 18 years. For the purposes of regulation, the BAI defines children's programmes as programmes that are commonly referred to as such and/or have an audience profile of which over 50% are under 18 years of age. This principle recognises that children of different ages require different levels of protection and broadcasters provide a range of programming for children, some of which may deal with more mature themes, appropriate to the lived reality and experience of older children.

In fulfilment of Principle 4, broadcasters shall:

- Ensure that programme material that might seriously impair the physical, mental or moral development of children is not broadcast when children are likely to be viewing, in particular, programmes that include pornography or gratuitous violence.
- Take particular care when broadcasting programme material to children or at times when children may be watching or listening. This will include, in particular, programme material broadcast before the watershed.
- Take particular care when scheduling programming material that is broadcast either side of programmes that are likely to be watched or listened to by children, such as after the watershed, during school runs, and during school holidays.
- Take particular care to ensure that trailers and promotions for programming not reasonably regarded as suitable for children shall not be shown immediately before, during or after children's programming or before the watershed.

Principle 5

RESPECT FOR PERSONS AND GROUPS IN SOCIETY

The manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity. Robust debate is permissible as is the challenging of assumptions but programme material shall not stigmatise, support or condone discrimination or incite hatred against persons or groups in society in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race, nationality, ethnicity or religion.

In fulfilment of Principle 5, broadcasters shall:

- Not broadcast material involving threatening, abusive or insulting visual images or sounds with the intent to stir up hatred or where it is likely that hatred will be stirred up as a result against persons or groups in society, including on the grounds of race, religion, sex, ethnicity, sexual orientation or nationality.
- Only emphasise age, colour, gender, national or ethnic origin, disability, race, religion or sexual orientation when such references are justified, having regard to the principles of this Code, in particular, the importance of context.
- Recognise that the use of terms, references and images that could be considered offensive to persons and groups in society and associated colloquial terms of abuse aimed at any group requires editorial justification for their inclusion in programming.
- Show due respect for religious views, images, practices and beliefs in programme material. This is not intended to prevent the critical scrutiny of religion by means of information, drama or other programming.

Principle 6

PROTECTION OF THE PUBLIC INTEREST

The BAI supports robust and responsible programme making that facilitates viewers and listeners in understanding subjects of public importance and informs them in the public interest. The public interest consideration should not be seen as a test used to limit broadcasting freedom but rather, it is a principle that animates broadcasting and serves a democratic society.

Public interest content may include programme material that:

- Reveals or detects crime;
- Protects public health or safety;
- Exposes false or misleading claims made by individuals or organisations;
- Discloses incompetence of individuals or organisations that affect the public;
- Exposes misuse of public funds;
- Exposes the breaking of the law;
- Encourages and facilitates debate and understanding of social and political topics;
- Informs the public, or raises a debate, on matters of public importance.

However, broadcasters must have regard to other matters of importance to society. In particular, broadcasters shall protect the interests of the audience where the provision of the broadcasting service has, as one of its principal objectives, the promotion of the interests of any organisation. Broadcasters shall not broadcast anything likely to promote, or incite, to crime or as tending to undermine the authority of the State. This principle should not be interpreted to inhibit broadcasters from challenging public policy or having open debates about how government and society does or does not operate. This principle recognises that the public interest can also be adversely affected by the omission of material and/or the inadequate representation of information or viewpoints.

In fulfilment of Principle 6, broadcasters shall:

- Not broadcast material likely to promote, or incite to, crime or as tending to undermine the authority of the State.
- Protect the interests of the audience where the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation.
- Not encourage behaviour or views that are grossly prejudicial to the protection of the environment. Broadcasters are encouraged to inform audiences of current developments in respect of environmental matters in a manner that gives due weight to the balance of contemporary scientific knowledge.
- Ensure competitions and voting are conducted fairly under rules made known to the audience so as not to mislead the audience.

Principle 7

RESPECT FOR PRIVACY

This principle recognises that individuals have a right to privacy. Broadcasters shall respect the privacy of the individual and ensure that it is not unreasonably encroached upon either in the means employed to make the programme or in the programme material broadcast.

This principle also recognises that the right to privacy is not absolute. The privacy to which an individual is entitled is that which is reasonable in all of the circumstances. The right to privacy must be balanced against other rights and considerations, such as the public interest, freedom of expression, the rights of others, the requirements of public order and the common good. The privacy of a person may be unreasonably encroached upon where there is no good reason for the encroachment.

The casual or incidental broadcast of people in public settings in a programme shall not, normally, be considered an unwarranted or unreasonable encroachment of privacy.

Complaints regarding privacy must be made by the person whose privacy may have been unreasonably encroached upon. A parent, guardian or representative nominated by the person, may make a complaint on behalf of the person where appropriate.

In fulfilment of Principle 7, broadcasters shall:

- Ensure that any encroachment on the privacy of an individual in a programme or in the means of making a programme is not unwarranted, having regard to the principles of this Code, in particular, the protection of the public interest. Any such encroachment must be proportionate and limited to the degree that is required to inform the audience in the public interest.
- Have due regard to the concept of individual consent and ensure that participants in a broadcast are generally aware of the subject matter, context and the nature and format of their contribution so that their agreement to participate constitutes informed consent.
- Have due regard to the particular considerations that apply in the case of a vulnerable person or a child under 16 years of age, to ensure that the privacy of such persons is never unreasonably encroached upon. Vulnerable people are individuals whose personal circumstances or well-being require that extra care be taken.

- Obtain consent where programme material, or the means of making programme material, directly involves a vulnerable person or a child less than 16 years of age. Consent should be sought from the vulnerable person or child, if possible, **and** from a parent, guardian, nominated representative or person responsible for his/her primary care. It may not be necessary to obtain consent if the subject matter is trivial or the participation is minor or, based on other factors, it is warranted to proceed without consent, having regard to the principles of this Code.
- Give due consideration to requests for withdrawal of consent, having regard to the principles of the Code, in particular, the protection of the public interest and other circumstances that may arise such as contractual relationships.
- Ensure that the re-use of material, for use in different programme material or for another purpose, does not unreasonably encroach on the privacy of an individual.
- Have due regard to the impact that coverage and repeated coverage of death may have on the families and friends of the deceased.
- Have due regard for the particular considerations that apply when filming in situations of emergency or when filming victims of accidents or those suffering personal tragedy, in order to ensure that the privacy of such persons is not unreasonably encroached upon.
- Ensure that surreptitious filming or recording is only used where it is warranted.



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CLÁR ÁBHAR

BROLLACH / 01

RÉAMHRÁ

Bonn Reachtúil / 03

Cuspóirí an Chóid seo / 06

An Ceart chun Gearán a Dhéanamh / 07

Conas an Cód seo a Chomhlíonadh / 07

Conas Gearán a Dhéanamh / 07

Conas a Mheasúinídh an BAI Gearáin? / 08

Scóip agus Dlinse / 08

Dáta Éifeachtach / 08

PRIONSABAIL CHÓID UM CHAIGHDEÁIN CHLÁR

An t-idirdhealú idir Diobháil agus Maslú / 09

Prionsabal 1: Meas a léiriú ar Chaighdeáin an Phobail / 10

Prionsabal 2: Tábhacht an Chomhthéacs / 11

Prionsabal 3: Cosaint ó Dhíobháil / 13

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TEAGMHÁIL

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BROLLACH

Tasc dúshlánach is ea Cód um Chaighdeáin Chlár a fhorbairt, ní dá laghad mar gheall nach bhfuil aon chomhthuisctint uilíoch ann ar cad is caighdeáin ann nó cén caighdeáin ar ceart cloí leo. Thairis sin, tá buairt ann go bhféadfadh liosta fadálach de thoirmisc eascairt as an gcód sin a d'fhéadfadh srian a chur ar chraolachán éifeachtach, ar deireadh. Is casta, caolchúiseach agus an-difriúil óna chéile iad coincheapa na díobhála agus an mhaslaithe atá fréamhaithe sa reachtaíocht.

Ní rud saor do chách é craolachán. Tá caighdeáin ann. Tá teorainneacha ann a mbeidh nach mór gach duine sa lucht féachana ag iarraidh nach sárófar iad.

Seirbhís atá sa Chód seo, de réir mar a thuigeann Údarás Craolacháin na hÉireann (BAI), do chraoltóirí agus don lucht féachana araon. Lorgaíonn sé chun creatlach a chur ar fáil atá bunaithe go dlúth daingean laistigh den chomhthéacs reachtuil a aithníonn an tseirbhís thábhachtach a sholáthraíonn craolachán don phobal nach ndéanann iarracht chun imscríobh a dhéanamh ar shaoirse aon chraoltóra. Ach aithníonn sé, chomh maith, an teidlíocht atá ag an lucht féachana go léireofar meas ar a ndaorbhreitheanna daingne, go n-aithneofar agus go léireofar a chastacht agus a éagsúlacht agus go gcosnaítear iad siúd atá leochaileach.

Soláthraíonn sé slat tomhais, chomh maith, ar féidir leis an lucht féachana measúnú a dhéanamh ar aschur craolta ina leith mar aon le bonn soiléir ar ar féidir gearán a bhunú má chreidtear gur theip ar chraoltóir meas a léiriú

ar cheanglais an dlí nó an Chóid seo. Tugann sé faoi, ar an ábhar sin, chun prionsabail shoiléire a sholáthar ar cheart cloí leo mar aon le sraith riachtanas (nach bhfuil críochnaitheach) nach mór a bhaint amach. Tríothu seo, tá a mbealach línithe go soiléir ag craoltóirí, éisteoirí agus breathnóirí.

Saincheisteanna tábhachtacha iad díobháil agus maslú don dlí agus is saincheisteanna casta iad don rialtóir. Leagfadh sé cosc doshamhalta ar shaoirse tuairimíochta agus ar bheogacht an chraolacháin mura gcríoilfaí aon rud ar dócha go ndéanfadh sé duine ar bith a mhaslú. Ach ní cheanglaíonn an dlí sin ná ní fhorordaíonn an Cód seo sin. Ní hamháin nach bhfuil aon cheart ann nach ndéanfar thú a mhaslú, beidh sé dosheachanta go gcuimseofar i seirbhís chlár ina bhfuil saibhreas iomlán an tsaoil agus a thugann faoi dhul i ngleic leis an réimse iomlán ábhair bhuartha don lucht féachana, ábhar a bheidh ina fhoinsé mhaslaithe do roinnt daoine. Tá dualgas ar chraoltóirí a bheith gríosaitheach agus cur leis an bhfeasacht atá ag sochaí orthu féin, ar an tsaintréith dhinimiciúil agus athraitheach agus ar a n-áit sa domhan nua-aimseartha.

Seo an fáth nach díreach liosta d'fhorordaithe nó toirmisc go simplí atá sa Chód seo. B'fhearr leis blaiseadh den oiriúnacht a thabhairt ná chun comhaontú a lorg ar céard atá i gceist le blas. Aithníonn sé an tábhacht a bhaineann le ton agus comhthéacs sa bhealach a fhreagróidh lucht féachana do chlár. Is eol dó go bhfuil saghsanna d'ábhar ann is tipiciúla a dhéanfaidh daoine a mhaslú, ach is eol dó,

chomh maith, nach mbíonn sé cabhrach de shíor iarracht a dhéanamh chun tuairim statach nó réamhchinntithe a bheith agat ar céard a bheidh i gceist le blas ag aon tráth amháin.

Ní hionann díobháil, in aon chor, áfach, faoi mar a dtugtar breac-chuntas uirthi sa Chód. Is ceart agus is cóir a chinntiú nach ndéanann a ndéantar a chraoladh díobháil d'aon duine sa lucht féachana. Tá an ceart ag daoine nach ndéanfar díobháil dóibh. Baineann tábhacht thromchúiseach le buarthaí leanaí agus tugtar faoi deara iad go sonrath sa Chód, faoi mar a dhéantar san Acht Craolacháin, 2009 (“an tAcht”) agus sa Treoir maidir le Seirbhísí na Meán Closamhairc 2010/13/AE (“an Treoir”).

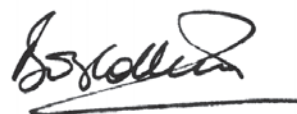
Déanann an tAcht foréigean agus iompar gnéasach a chur i gcodarsnacht lena chéile san abairt chéanna. Ach ní dhéantar amhlaidh chun coibhéis mhorálta a bhunú eatarthu. Ní mór breithiúnais éagsúla a dhéanamh ina leith.

Beidh amanna ann a mheasfar gur sháraigh ábhar cláir tairseach inghlacthachta agus gur cheart d'idirghabháil eagarthóireachta cosc a chur ar a tharchur. Níl saoirse iomlán i gceist le saoirse tuairimíochta agus ní áirítear an tsaoirse leis seo chun baint de charachtar agus cáil daoine aonair go héagórach nó iad a chlúmhillleadh. Sa chás go gcráoltar an t-ábhar sin, is tábhachtach go bhfuil sásamh ar fáil. Foinse den sásamh sin is ea go bhfuil an Coiste Comhlíonta, coiste reachtúil den Údarás, ann.

Ábhar ríthábhachtach d'Údarás Craolacháin na hÉireann is ea leas an phobail. Is é an bhunchloch faoi go leor atá i gceist leis an dlí mar aon le cur chuige an BAI i leith a n-oibre. Ach d'fhéadfadh cúinsí a bheith i gceist inar féidir an cuspóir sin

a chúlghairm ar bhealaí atá éagsúil ónár gcur chuige. D'fhéadfadh sé a bheith úsáideach, ar an ábhar sin, a shoiléiriú céard atá i gceist againn. Sa Chód seo, úsáidtear an téarma ‘leas an phobail’ sa chiall a éascaíonn seachas sa chiall a leagan srian. Ciallaíonn sé fíor-leas saoránach agus daoine eile a chónaíonn sa stát; an cumas atá acu chun tuiscint iomlán a bheith acu ar an mbealach a thugtar faoin saol poiblí; agus an teidlíocht atá acu an réimse is mó d'fhaisnéis a fháil chun cabhrú leo sna roghanna agus na cinntí a dhéanfaidh siad ina saol agus i dtabhairt faoinár ndaonlathas.

Léirítear go leor den mhéid a sholáthraíonn an Cód sa bhealach a thugann craoltóirí freagracha faoina n-obair thábhachtach. I dtabhairt faoina mbreithiúnais eagarthóireachta, mar shampla, beidh siad íogair i leith luachanna an phobail; léireoidh siad meas ar an tairseach; aithneoidh siad próifíl an lucht féachana atá éagsúil i dtaobh cúrsaí cáilíochtúla de atá ar fáil le linn saoirse scoile; agus déanfaidh siad cláreagrú ar bhonn íogair. Is éard a bhfuil an BAI ag súil leis go ndéanfaidh an Cód seo ná na caighdeáin is airde is féidir a spreagadh sa tseirbhís a sholáthraítear don lucht féachana agus go leagfaidh a phrionsabail agus a riachtanais nasctha an cur chuige amach ar cheart do chraoltóirí tabhairt faoi agus a chinntiú don lucht féachana go dtacaítear lena leas agus go gcosnaítear iad.



Bob Collins

Cathaoirleach (2009–2014)

Údarás Craolacháin na hÉireann

RÉAMHRÁ

BONN REACHTÚIL

Réitíonn agus foilsíonn Údarás Craolacháin na hÉireann (“an BAI”) cóid chleachtais do chraoltóirí, faoi mar a cheanglaíonn an dlí. Déanann an Cód seo ionadaíocht don reacht, go háirithe do cheanglais ailt 42(2) (c), (d), (f), (i) agus (j) den Acht Craolacháin, 2009 (“an tAcht”).

REACHTAÍOCHT	FORÁLFAIDH NA CÓID CHRAOLACHÁIN:	CÓD AN BAI
Alt 42(2)(a)	go ndéanfar an nuacht go léir a bheidh á craoladh ag craoltóir a thuairisciú agus a chur i láthair go hoibiachtúil agus go neamhchlaonta gan aon tuairimí de chuid an chraoltóra féin a nochtadh,	An Cód Cothroime, Oibiachtúlachta agus Neamhchlaontachta sa Nuacht agus i gCúrsaí Reatha
Alt 42(2)(b)	go ndéanfar, nuair a bheifear ag déileáil i gcaolacháin le cúrsaí reatha, lena n-áirítear nithe is ábhair chonspóide poiblí nó is ábhair díospóireachta reatha poiblí, cothrom na féinne a thabhairt do na leasanna uile lena mbaineann agus go gcuirfear an t-ábhar a chraolfar i láthair go hoibiachtúil agus go neamhchlaonta gan aon tuairimí de chuid an chraoltóra féin a nochtadh,	An Cód Cothroime, Oibiachtúlachta agus Neamhchlaontachta sa Nuacht agus i gCúrsaí Reatha
Alt 42(2)(c)	nach gcaolfaidh craoltóir aon ní gur dóigh dó coireacht a chur chun cinn nó a ghríosú nó gur de ghné é a dhéanfadh dochar d’údarás an Stáit,	An Cód um Chaighdeáin Chlár
Alt 42(2)(d)	nach ndéanfar, i gcláir a chraolfaidh craoltóir agus sna modhanna a úsáidfear chun na cláir sin a dhéanamh, cúngú míréasúnach ar phríobháideachas aon phearsan aonair,	An Cód um Chaighdeáin Chlár

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REACHTAÍOCHT	FORÁLFAIDH NA CÓID CHRAOLACHÁIN:	CÓD AN BAI
Alt 42(2)(e)	nach ndéanfaidh craoltóir, le linn dó nó di an t-am a leithroinnt le haghaidh craolacháin páirtithe polaitíochta a tharchur, tosaíocht mhíchothrom a thabhairt d'aon pháirtí polaitíochta,	An Cód Cothroime, Oibiachtúlachta agus Neamhchlaontachta sa Nuacht agus i gCúrsaí Reatha agus Na Treoirínte maidir le Toghcháin agus Reifrinn
Alt 42(2)(f)	go ndéanfar, maidir le bunábhar clár a chraolfaidh craoltóir, luchtanna féachana agus éisteachta a chosaint ar bhunábhar dochrach nó colúil, go háirithe, go ndéanfaidh craoltóir bunábhar clár i leith léiriú ar fhoréigean agus iompar gnéasach, a chur i láthair – (i) le híogaireacht chuí maidir le háitiúis nó le mothúcháin an lucht féachana nó an lucht éisteachta, agus (ii) ag féachaint go cuí d'éifeacht clár den sórt sin ar fhorbairt fhisiciúil, mheabhrach nó mhorálta leanaí,	An Cód um Chaighdeáin Chlár
Alt 42(2)(g)	maidir le fógraíocht, bunábhar teilishiopadóireachta, urraíocht agus cineálacha eile cuir chun cinn tráchtála a úsáidtear in aon seirbhís craolacháin, go háirithe fógraíocht agus gníomhaíochtaí eile den sórt sin a bhaineann le nithe ar dóigh dóibh a bheith ina ndíol suime do leanaí go díreach nó go neamhdhíreach, go ndéanfaidh siad leasanna leanaí a chosaint ag féachaint go háirithe do leasanna leanaí i gcoitinne ó thaobh sláinte an phobail de,	Cód Cumarsáid Tráchtála na Leanaí

→

REACHTAÍOCHT	FORÁLFAIDH NA CÓID CHRAOLACHÁIN:	CÓD AN BAI
Alt 42(2)(h)	maidir le fógraíocht, bunábhar teilishiopadóireachta, urraíocht agus cineálacha eile cuir chun cinn tráchtála a úsáidtear in aon seirbhís craolacháin, seachas fógraíocht agus gníomhaíochtaí eile mar a dúradh a thagann faoi réim mhír (g), go ndéanfaidh sí leasanna an lucht féachana nó an lucht éisteachta a chosaint,	An Cód Cumarsáid Ghinearálta Tráchtála
Alt 42(2)(i)	maidir le haon seirbhís craolacháin a sholáthar a mbeidh cur chun cinn leasanna aon eagraíochta mar cheann dá príomhchuspóirí, go ndéanfaidh sé leasanna an lucht féachana nó an lucht éisteachta a chosaint, agus	An Cód um Chaighdeáin Chlár
Alt 42(2)(j)	do na nithe a gceanglaítear foráil a dhéanamh dóibh le Caibidlí IIA, IV agus V den Treoir ón gComhairle. ¹	An Cód um Chaighdeáin Chlár, An Cód Cumarsáid Ghinearálta Tráchtála, Cód Cumarsáid Tráchtála na Leanaí, Rialacha an BAI ar Fhógraíocht agus Teilishiopadóireacht

¹ ‘Ciallaíonn ‘Treoir ón gComhairle’ Treoir 89/552/CEE ón gComhairle an 3 Deireadh Fómhair 1989 ar chomhordú roinnt forálacha a leagtar síos ag an dlí, rialachán nó gníomhaíocht riaracháin i mBallstáit a bhaineann le tabhairt faoi ghníomhaíochtaí craolta teilifíse amhail a leasaíonn Treoir 97/36/CE ó Pharlaimint na hEorpa agus ón gComhairle an 30 Meitheamh 1997 agus Treoir 2007/65/CE ó Pharlaimint na hEorpa agus na Comhairle an 11 Nollaig 2007.

Le linn dó cód craolacháin a ullmhú nó a athmheas, beidh aird ag an Údarás ar gach ceann de na nithe seo a leanas, anuas ar fhorálacha Alt 42(3) den Acht:

- (a) an méid dochair nó coil is dóigh a dhéanfaí dá gcuirfí aon sórt ar leith bunábhair i gclár i gcoitinne nó i gclár de thuirisc áirithe,
- b) méid agus comhdhéanamh dóchúil an lucht féachana nó an lucht éisteachta ionchasaigh le haghaidh clár a bheidh ar áireamh i seirbhísí craolacháin teilifíse agus fuaimne i gcoitinne nó i seirbhísí craolacháin teilifíse agus fuaimne de thuirisc áirithe,
- (c) ionchas dóchúil an lucht féachana nó an lucht éisteachta maidir leis an gcineál lánais a bheidh i gclár agus a mhéid is féidir aird daoine a d'fhéadfadh a beith i measc an lucht féachana nó an lucht éisteachta a tharraingt ar an gcineál lánais a bheidh i gclár,

d) an dóchúlacht atá ann, maidir le daoine nach eol dóibh an cineál lánais a bheidh i gclár, go bhfeicfidh siad nó go gcloisfidh siad an lánas sin go neamhdheonach trína mbearta féin,

- (e) a inmhianaithe atá sé a áirithiú go léirítear i lánas seirbhíse craolacháin an tráth a bhfuil athrú ann a dhéanann difear do chineál na seirbhíse a bhfuiltear ag féachaint uirthi nó ag éisteacht léi agus, go háirithe, athrú is iomchuí maidir le cur chun feidhme na gcód a shocraítear faoin alt seo, agus
- (f) a inmhianaithe atá sé neamhspleáchas a chothabháil maidir le rialú eagarthóireachta ar lánas clár.

Tugtar éifeacht phraiticiúil do na forálacha reachtúla seo i líon cód a oibríonn an BAI. Cuimsíonn an Cód seo um Chaighdeán Chlár na forálacha atá aibhsithe sa tábla thuas. Is féidir teacht ar gach ceann de chóid an BAI ar www.bai.ie.

CUSPÓIRÍ AN CHÓID SEO

- Craolachán freagrach a chur chun cinn ina gcuirtear feabhas ar rochtain ar fhaisnéis, siamsaíocht agus oideachas mar aon le réimse tuairimí agus ina laghdaítear maslú agus díobháil mícheart.
- Éagsúlacht na roghanna agus na suimeanna a aithint atá ann i sochaí chomhaimseartha na hÉireann agus chun craolachán a spreagadh agus a éascú a fhreastalaíonn ar éagsúlacht.
- Breathnóirí agus éisteoirí a chur ar an eolas ar na caighdeáin ar féidir leo bheith ag súil leo ó sheirbhísí craolacháin agus a chur ar chumas breathnóirí agus éisteoirí freagracht a leagan ar chraoltóirí sa chás go gcreideann siad go raibh iompar mífhreagrach ar bun ag craoltóir.
- Treoir a sholáthar do chraoltóirí maidir le ceisteanna a thagann faoi chuimsiú scóip na gcód.

AN CEART CHUN GEARÁN A DHÉANAMH

Tá an Cód in ainm is cabhrú le breathnóirí agus éisteoirí a gcreideann go bhfuil gearán dlisteanach acu faoi chraolachán agus ar mian leo gearán a dhéanamh. Míníonn

sé conas is féidir leis an BAI measúnú a dhéanamh ar ghearán. Tá sé beartaithe é a dhéanamh chomh furasta agus is féidir go ndéanfaí breithniú ar do ghearán.

CONAS AN CÓD SEO A CHOMHLÍONADH

- Ceanglaítear ar chraoltóirí gach ceann de na seacht bprionsabal sa Chód seo a chomhlíonadh.
- Tá na prionsabail do-inroinnte, is é sin, cloífidh gach ábhar cláir le gach ceann de na prionsabail.
- Tá liosta de cheanglais neamhchríochnaitheacha ag gach prionsabal nach mór do chraoltóirí a bhaint amach. Cabhraíonn na ceanglais do bhreathnóirí agus d'éisteoirí tuiscint a fháil ar conas a d'fhéadfaí an prionsabal a chomhlíonadh.

CONAS GEARÁN A DHÉANAMH

- Tá sé de theideal ag breathnóirí agus éisteoirí a chreideann nár chomhlíon an t-ábhar cláir prionsabail agus ceanglais an Chóid seo gearán a dhéanamh. Ba cheart gearáin a dhéanamh, sa chéad ásc, leis an gcráoltóir.
- Ba cheart duit an clár ábhartha a craoladh a shainaithint agus a mhíniú céard go díreach faoin gcraoladh a spreag tú chun gearán a dhéanamh. Is tábhachtach a leagan amach go soiléir forais do ghearáin nó cén fáth a chreideann tú nach gcomhlíonann ábhar an chláir ceann amháin nó níos mó de phrionsabail an Chóid seo agus/nó na forálacha reachtúla a leagtar amach thuas.
- Ba cheart go ndéanfadh do ghearán tagairt do cheann amháin de na prionsabail, ar a laghad.
- Ceanglaítear ar gach craoltóir breithniú a dhéanamh ar ghearáin ar aon dul lena gCód Cleachtais um Láimhseáil Gearán agus ba cheart duit tagairt a dhéanamh do Chód Cleachtais an chraoltóra nuair a dhéanann tú do ghearán leis an gcráoltóir. Ba cheart go míneodh an Cód Cleachtais conas a dhéanfaidh craoltóir breithniú agus measúnú ar do ghearán.

CONAS A MHEASÚNÓIDH AN BAI GEARÁIN?

In go leor cúinsí, sa chás nár thug an craoltóir freagra ar do ghearán nó nach bhfuil tú sásta leis an bhfreagra, féadfaidh tú do ghearán a chur faoi bhráid an BAI. Déanfaidh Coiste Comhlíonta an BAI breithniú ar do ghearán. Breithneoidh an BAI ábhar an chláir a ndearnadh gearán faoi ina iomláine agus ina chomhthéacs agus tagairt á déanamh don mhéid a leanas:

- Na saincheisteanna a shaináithnítear sa ghearán;
- Seacht bprionsabal an Chóid seo agus ceanglais gach cinn de na prionsabail;
- Forálacha an Achta Craolacháin, 2009;
- Forálacha na Treorach maidir le Seirbhísí na Meán Closamhairc 2010/13/AE; agus,
- Nósanna imeachta, cleachtais agus beartais an BAI.

Ní thabharfaidh an BAI faoi mheasúnú ar leith nó neamhspleách lasmuigh de na saincheisteanna a thugtar chun solais sa ghearán.

Is féidir tuilleadh eolais faoin bpróiseas gearán a fháil ar láithreán gréasáin an BAI, www.bai.ie nó trí ghlaó gutháin a chur ar [01 6441200](tel:016441200).

SCÓIP AGUS DLÍNSE

Bainfidh an Cód seo le gach ábhar cláir a chraolann craoltóirí laistigh de dhlínse na hÉireann. Ní bhaineann sé le cumarsáid tráchtála, ar nós fógraíochta, urraíocht chláir nó teilishiopadóireacht nó le gearáin faoi chothroime, oibiachtúlacht agus neamhchlaontacht sa nuacht agus ábhar i gcúrsaí reatha. Ní bhaineann sé le seirbhísí eile a fhaightear go coitianta sa Stát, ach atá ceadúnaithe sa Ríocht Aontaithe nó i ndlínsí eile.

Tuigtear an téarma ‘craoltóir’ i gcomhthéacs an tsainmhíntithe a sholáthraítear san Acht Craolacháin, 2009, arb é seo a leanas é:

“Ciallaíonn ‘craoltóir’ duine a sholáthraíonn teaghlaim de bhunábhar clár chun í a tharchur, a leaschraoladh nó a leathadh mar sheirbhís craolacháin (cibé acu a dhéanfaidh nó nach ndéanfaidh an duine sin an bunábhar sin a tharchur, a leaschraoladh nó a leathadh mar sheirbhís den sórt sin);”

DÁTA ÉIFEACHTACH

Tagann an Cód seo i bhfeidhm ar an 1ú Márta 2015.

PRIONSABAIL CHÓID UM CHAIGHDEÁIN CHLÁR

Tá seacht bprionsabal threoracha mar bhonn agus taca leis an gClár um Chaighdeáin Chlár agus déanfar gach gearán a mheasúnú ina leith. Is iad seo na prionsabail:

- | | | | |
|---|---|---|---|
| 1 | MEAS A LÉIRIÚ
AR CHAIGHDEÁIN PHOBAIL | 5 | MEAS A LÉIRIÚ AR DHAOINE
AGUS GHRÚPAÍ SA TSOCHAÍ |
| 2 | TÁBHACHT AN CHOMHTHÉACS | 6 | COSAINT LEAS AN PHOBAIL |
| 3 | COSAINT Ó DHÍOBHÁIL | 7 | MEAS A LÉIRIÚ
AR PHRÍOBHÁIDEACHT |
| 4 | COSAINT LEANAÍ | | |

AN T-IDIRDHEALÚ IDIR DÍOBHÁIL AGUS MASLÚ

Nuair a ceanglaíodh ar an BAI chun an Cód seo a chur i dtoll a chéile, déanann an tAcht plé ar dhíobháil agus maslú. Tá idirdhealú tábhachtach le déanamh idir an dá rud. Féadfaidh na hábhair sin is ábhar maslaithe bheith éagsúil ó dhuine go duine, agus is minic a bhíonn siad amhlaidh, agus bíonn siad suibiachtúil den chuid is mó i dtaobh cineáil de. Agus seo á aithint, ní féidir a chinntiú go mbeidh ábhar cláir saor ó mhaslú. Níl aon cheart ann nach ndéanfar tú a mhaslú agus, i dtaobh craoltóirí, bítear ag súil leis, agus a ndualgas á chomhlíonadh acu chun réimse fairsing de chlár a sholáthar a fhreastalaíonn ar lucht féachana fairsing, go mbeidh roinnt clár ann a bheidh ina n-ábhair mhaslaithe do roinnt daoine den lucht féachana. Freagraíonn an Cód do mhaslú ar dhá bhealach. Ar an gcéad dul síos, tá sé de chuspóir aige a chinntiú go bhfuil an fhaisnéis leordhóthanach ag an mbreathnóir agus an éisteoir chun rogha fheasach a dhéanamh ar céard leis a n-éisteann siad nó céard ar a bhfeiceann siad. Treoraíonn craoltóirí éisteoirí agus breathnóirí trí réamhrabhadh a thabhairt agus trí clár a sceidealú de réir ionchais lucht féachana an tsaghais sin ábhair nó de chainéal nó de sheirbhís ar leith. Ar an dara dul síos, cosnaíonn an Cód i leith maslú míchuí, arb ábhar cláir é, go bhféadfaí caitheamh leis go fóill amhail ábhar a sháraigh tairseach agus a d'fhág gur maslaíodh an breathnóir nó an t-éisteoir go míchuí, tar éis tosa comhthéacsúla ar nós fírinniú eagarthóireachta agus leas an phobail a chur san áireamh.

Níl díobháil chomh suibiachtúil céanna. Rud éigin atá ann nach mbraitheann an oiread céanna ar na tuairimí suibiachtúla a bhíonn ag gach duine ar chlár a n-éisteann siad leo nó a bhfeiceann siad orthu. Ábhar díobhálach is ea ábhar a bhfuil 'tionchar' aige – ábhar a bhíonn mar chúis le díobháil mheabhrach, shíceolaíoch nó fhisiciúil. Níor cheart d'ábhar cláir díobháil a dhéanamh do dhaoine aonair agus tá sé de chuspóir ag an gCód chun cosc a chur ar dhíobháil a dhéanamh d'éisteoirí agus do bhreathnóirí. Agus a aithint gur dhá choincheap ar leith iad seo, glacann an Cód leis, chomh maith, go bhféadfadh maslú a bheith díobhálach faoi roinnt cúinsí.

Prionsabal 1

MEAS A LÉIRIÚ AR CHAIGHDEÁIN AN PHOBAIL

Creideann an BAI go bhfuil caighdeáin ghinearálta phobail ann nach mór do chraoltóirí a chur san áireamh nuair a bhíonn cláir á ndéanamh acu. Baineann na caighdeáin seo le réimse saincheisteanna a chuimsítear in ábhar cláir, lena n-áirítear meonta i leith téarmaí sonracha friotail, íomhánna foréigneacha agus gnéasacha a úsáid. Ceanglaítear ar chraoltóirí breithniú a dhéanamh ar na caighdeáin seo agus tagairt á déanamh do phrionsabail eile an Chóid seo. Aithníonn an prionsabal seo go bhfuil na caighdeáin sin i gcónaí ag teacht chun cinn agus nach mór craolachán a éascú agus ionadaíocht á déanamh d'éagsúlacht, iolracht agus réadúlacht fhairsing shocháí na hÉireann. Is éard a d'fhéadfadh a bheith i gceist leis seo, amanna, cláir a dhéanamh a d'fhéadfadh bheith ina n-údar maslaithe do bhreathnóirí agus d'éisteoirí ach a bhfuil údar leo ar mhaithe le cúiseanna cruthaitheacha, eagarthóireachta agus cúiseanna eile.

Aithníonn an prionsabal seo an tábhacht a bhaineann le neamhspleáchas agus saoirse eagarthóireachta agus teidlíocht luchtanna féachana chun réimse fairsing de chláir a bheith acu.

I gcomhlíonadh Phrionsabal 1, déanfaidh craoltóirí an méid a leanas:

- An aire ceart a thabhairt nuair a bhíonn léiriú agus/nó cur síos á dhéanamh ar fhoréigean á gcráladh acu in ábhar cláir. Beidh an aird chuí ag craoltóirí ar oiriúnacht ábhair fhoréignigh a áireamh in ábhar cláir agus/nó an t-údar atá leis, agus aird ar gach prionsabal den Chód.
- An aire ceart a thabhairt nuair a bhíonn léiriú agus/nó cur síos á dhéanamh ar ábhar gnéasach in ábhar cláir. Beidh an aird chuí ag craoltóirí ar oiriúnacht ábhair ghnéasaigh a áireamh in ábhar cláir agus/nó an t-údar atá leis, agus aird ar gach prionsabal den Chód.
- An aird chuí a thabhairt ar oiriúnacht friotail ghairbh agus/nó mhaslaigh a áireamh i gcláir, agus/nó ar an údar atá leis.
- Bheith ar an airdeall i leith, agus cosaint i leith úsáid friotail ghairbh agus/nó mhaslaigh i gcláir bheo, agus sa chás go dtarlaíonn na teagmhais sin, bearta tráthúla a ghlacadh chun aon mhaslú a rinneadh a íoslaghdú, ar nós an friotal a úsáideadh a aithint, a shoiléiriú agus/nó leithscéal a ghabháil faoi.

Prionsabal 2

TÁBHACHT AN CHOMHTHÉACS

D'fhéadfadh ábhar an chláir, amháin, bheith ina údar le díobháil nó maslú nó de bhua an chomhthéacs ina n-amharctar ar nó ina n-éistear le hábhar cláir mar gheall nach bhfuil an t-ábhar ar aon dul le hionchais an lucht féachana. Féadfaidh craoltóirí an aire chuí a thabhairt dá lucht féachana trí réimse tosca comhthéacsúla a chur san áireamh ar féidir leo tionchar a imirt ar bhraistint an éisteora nó an bhreathnóra ar ábhar cláir agus, dá bhrí sin, an méid díobhála nó maslaithe a d'fhéadfadh tarlú. I measc na dtosca sin tá:

- An t-am a chraoltar clár;
- Saghas an chláir (i.e. ábhar, seánra, beo, réamhthairfeadta nó athchraoladh);
- Ionchais dhóchúla an lucht féachana maidir le cineál an chláir nó na seirbhíse craolta ar leith;
- An méid a úsáideadh faisnéis agus treoir an lucht féachana agus an méid a tugadh cineál an ábhair chun airde an lucht féachana roimh ré (trí rabhadh fuaimiúil nó rabhadh eile nó trí shiombail amhairc a bheith ar taispeáint mar shampla, i gcás cláir theilifíse) chun ligean do bhreathnóir nó éisteoir rogha fheasach a dhéanamh;
- An dóchúlacht go nochtfar daoine nach bhfuil feasach ar chineál an ábhair chláir ar bhonn neamhbheartaithe ag a ngníomhartha féin, don ábhar sin;
- Saghas an chainéil nó na seirbhíse ar ar craoladh an t-ábhar cláir;
- Cibé acu an raibh nó nach raibh údar eagarthóireachta le háireamh an ábhair a ndearnadh gearán ina leith;
- Méid agus comhdhéanamh dóchúil an lucht féachana don ábhar sin cláir.

I gcomhlíonadh Phrionsabal 2, déanfaidh craoltóirí an méid a leanas:

- Sceidealú cuí, agus, i measc rudaí eile, cineál an ábhair chláir, réimse dóchúil aoise an lucht féachana, cineál na seirbhíse craolta, an clár ar leith agus an t-am den lá is dóchúil go mbeidh leanaí ag féachaint ar chlár nó ag éisteacht le clár agus, ar sheirbhísí teilifíse, úsáid na tairsí a thabhairt san áireamh a bhíonn á hoibriú tar éis 21.00.
- An aird chuí a thabhairt ar ionchais bhunaithe an lucht féachana i leith seirbhís craolacháin agus iarmhairtí aon imeachta bheartaithe ó ghnáthchineál na seirbhíse.

- I gcláir bheo, an gníomh ceartaithe tráthúil a ghlacadh sa chás gur dócha go raibh ábhar neamhphleanáilte ina n-údar maslaithe. I dtaobh an ghnímh sin, d'fhéadfadh an t-ábhar sin a aithint, a shoiléiriú agus/nó leithscéal a ghabháil ina leith a bheith i gceist.
- Réamhrabhaidh agus/nó siombail amhairc a úsáid sa chás gur dócha go mbeidh ábhar cláir ina údar suaite nó maslaithe do líon mór breathnóirí.
- Córas measúnaithe nó sainithe aicmithe a úsáid le haghaidh ábhar cláir, sa chás gur féidir.
- Sonraí teagmhála uimhreacha oiriúnacha líne chabhrach a sholáthar don bhreathnóir nó don éisteoir, sa chás cuí.
- A chinntiú go soláthraítear gach meicníocht faisnéise agus treorach don lucht féachana ar bhealach atá inchloiste go soiléir do lucht féachana raidió agus infheicthe agus inchloiste go soiléir do lucht féachana teilifíse.
- A meicníochtaí faisnéise agus treorach don lucht féachana a chur chun cinn go cuí.

Prionsabal 3

COSAINT Ó DHÍOBHÁIL

D'fhéadfadh fórsa ar mhaithe leis an bpobal a bheith i gcráolachán. Agus saol daoine á shaibhriú trí shiamsaíocht nó trí fhaisnéis nó trí chlár eile, ní mór go mbeidh an tsaoirse ag craoltóirí chun clár a dhéanamh a bhraitheann siad a d'fhéadfadh bheith gríosaitheach nó a dhéileáil le saincheisteanna íogaire. Ní mór do chraoltóirí, áfach, an aire cheart a thabhairt lena chinntiú nach nochtar ábhar díobhálach do lucht féachana agus ní mór dóibh faisnéis leordhóthanach a sholáthar do lucht féachana go mbeidh siad in ann roghanna feasacha a dhéanamh faoin méid ar a bhfeiceann siad agus lena n-éisteann siad.

Aithníonn an prionsabal seo go bhféadfadh go mbeadh breithniú speisialta ag teastáil ó roinnt breathnóirí agus éisteoirí, de bhua a n-aoise, a gcúinsí nó a leochaileachta ar leith.

D'fhéadfadh go dteastódh meicníochtaí tacaíochta nó breis faisnéise/treorach ó bhreathnóirí agus éisteoirí aonair sa chás go nochtar iad d'ábhar lena n-ionannaíonn siad go tréan de bhua a gcúinsí nó a n-eispéiris phearsanta agus d'fhéadfadh seo bheith ina údar suaite dóibh. Teastaíonn cosaint ó roinnt daoine ó ábhar clár a d'fhéadfadh bheith mar chúis le frithghníomhú fisiciúil, mar shampla, ábhar a imríonn tionchar orthu siúd ar a bhfuil titimeas fótamhothálach nó iad siúd atá tugtha do hiopnóis. D'fhéadfadh cosaint bheith ag teastáil ó roinnt breathnóirí agus éisteoirí ó ábhar a meastar gurb ionann agus rud amháin é, nuair nach amhlaidh atá, mar shampla, rud éigin a mheastar atá fíriciúil atá ficseanúil nó conspóideach i ndáiríre.

I gcomhlíonadh Phrionsabal 3, déanfaidh craoltóirí an méid a leanas:

- An aird chuí a thabhairt nuair a bhíonn ábhar clár á chraoladh ina bhfuil carachtair, gníomhartha agus cúinsí pearsanta lena bhféadfadh an lucht féachana ionannú agus a d'fhéadfadh bheith ina údar le suaithheadh, go háirithe maidir le hábhar ar nós foréigean gnéasach, féindíobháil nó féinmharú, athchruthú imeachtaí fíriciúla agus píosa scannáin chartlainne. Gabhfaidh foirm éigin d'fhaisnéis nó de threoir don lucht féachana le hábhar clár den chineál seo, ar nós réamhrabhadh agus sonraí teagmhála do líne chabhrach.
- Gan mí-úsáid drugaí, alcóil, nó tuaslagán nó úsáid drugaí mídhleathacha a spreagadh nó a chur i láthair go fabhrach. Ní mór go mbeidh údar tréan eagarthóireachta leis go gcuirfí san áireamh léiriú agus/nó cur síos a dhéanamh ar mhodhanna agus teicnící sonracha chun drugaí mídhleathacha a riar.
- Gan ábhar a chraoladh a spreagann daoine chun aithris a dhéanamh ar ghníomhartha atá baolach nó díobhálach dá sláinte agus sábháilteacht féin nó daoine eile nó a atá go hiomlán dochroch do chosaint an chomhshaoil.

- An aird chuí a thabhairt nuair a bhíonn clár á chraoladh a n-áirítear ionsamhlú nuachta leis. Ní mór nuacht ionsamhlaithe (mar shampla i ndráma nó i gcláir faisnéise) a chraoladh ar an mbealach sin nach bhfuil aon fhéidearthacht réasúnta ann go míthreorófar an lucht féachana a chreidiúint go bhfuil siad ag éisteacht le, nó ag féachaint ar fhíor-nuacht.
- aitheamh le taispeáint díbeartha deamhan, diamhaire, ábhair pharanormálta, fáistine (insint cinniúna san áireamh) nó cleachtais a bhaineann le haon cheann díobh seo a mheastar atá, nó a d'fhéadfaí a mheas atá fíor, leis an aire chuí. Nuair atá an taispeáint sin ar mhaithe le cuspóirí siamsaíochta, ní mór go mbeidh seo soiléir don lucht féachana. Níor cheart go n-áireofaí leis an taispeáint sin, cibé acu má mheastar gur fíor iad nó go bhfuil siad ar mhaithe le cuspóirí siamsaíochta, comhairle athraithe saoil atá dírithe ar dhuine aonair ar a meastar go réasúnta go bhfrithghníomhóidh siad nó go mbraithfidh siad orthu. Ní bhaineann seo le taispeáint a bhíonn i gceist i scannáin, dráma nó i gcláir fhicseanúla eile.
- An aird chuí a thabhairt maidir leis an mbealach a thugtar faoi hiopnóis le linn cláir.
- Réamhrabhaidh a sholáthar, de réir mar is cuí, do bhreathnóirí ar a bhfuil titimeas fótamhothálach ar bhealach atá inchloiste agus infheicthe go soiléir.

Prionsabal 4

COSAINT DO LEANAÍ

Breathnóirí agus éisteoirí iad leanaí ag a bhfuil riachtanais ar leith agus táthar ag súil leis go bhfreagróidh craoltóirí do riachtanais ar leith leanaí mar bhaill den lucht féachana agus iad a chosaint ó ábhar nach bhfuil oiriúnach dóibh. Spreagann an prionsabal seo craoltóirí chun freagairt d'éagsúlacht eispéireas an linbh agus chun cláir a chur ar tairiscint dóibh a bhaineann le hábhar dóibh. Ceanglaíonn an prionsabal seo, chomh maith leis sin, nach nochtar leanaí do chlár a bhainfeadh go mór dá bhforbairt mhorálta, mheabhrach agus fhisiciúil, go háirithe, cláir ina bhfuil pornagrafaíocht nó foréigean gan tuilleamh. Tá freagracht ar chraoltóirí agus ar thuismitheoirí agus chaomhnóirí araon maidir leis na cláir lena n-éisteann agus ar a bhfeiceann leanaí agus maidir le leanaí a chosaint ó bheith nochtta d'ábhar neamhoiriúnach agus díobhálach cláir.

Faoin Acht Craolacháin, 2009, sainítear leanbh mar aon duine atá faoi 18 mbliana d'aois. Chun críocha na rialála, sainíonn an BAI cláir leanaí mar chlár dá dtagraítear de ghnáth mar amhlaidh agus/nó a bhfuil próifíl lucht féachana acu a bhfuil breis agus 50% díobh faoi 18 mbliana d'aois. Aithníonn an prionsabal seo go dteastaíonn leibhéil éagsúla de chosaint ó leanaí ar aoiseanna éagsúla agus go soláthraíonn craoltóirí réimse clár le haghaidh leanaí, a bhféadfadh roinnt díobh bheith ag déileáil le téamaí ní b'aibí, a oireann don réalachas agus don eispéireas, dar le leanaí níos sine.

I gcomhlíonadh Phrionsabal 4, déanfaidh craoltóirí an méid a leanas:

- A chinntiú nach gcraoltar ábhar cláir a d'fhéadfadh baint go mór d'fhorbairt fhisiciúil, mheabhrach nó mhorálta leanaí nuair is dóchúil go mbeidh leanaí ag féachaint ar an teilifís, go háirithe, cláir lena n-áirítear pornagrafaíocht nó foréigean gan tuilleamh.
- Aire ar leith a thabhairt i dtaobh ábhar cláir a chraoltar do leanaí nó ag tráthanna nuair a d'fhéadfadh leanaí a bheith ag féachaint nó ag éisteacht. Áireofar leis seo, ach go háirithe, ábhar cláir a chraoltar roimh an tairseach.
- Aire ar leith a ghlacadh nuair a bhíonn ábhar cláir á sceidealú a chraoltar gach taobh de chlár ar dócha go mbreathnóidh leanaí orthu nó go n-éistfidh leanaí leo, ar nós i ndiaidh na tairsí, fad atá leanaí á dtabhairt chuig agus ón scoil agus le linn saoirí scoile.
- Aire ar leith a ghlacadh lena chinntiú nach dtaispeántar réamhbhlaiseadh agus promóisin nach meastar go réasúnta atá oiriúnach do leanaí díreach roimh, le linn nó i ndiaidh clár do leanaí nó i ndiaidh na tairsí.

Prionsabal 5

MEAS A LÉIRIÚ AR DHAOINE AGUS GHRÚPAÍ SA TSOCHAÍ

Beidh an bealach a ndéantar ionadaíocht do dhaoine agus do ghrúpaí sa tsochaí oiriúnach agus infhírinne agus ní dhéanfaidh siad difear do mheas ar dhínit dhaonna. Ceadaítear díospóireacht dhaingean, is é sin, cur in aghaidh toimhdí, ach ní dhéanfaidh ábhar cláir idirdhealú idir daoine nó grúpaí sa tsochaí a stiogmatú nó a thacú nó neamhaird a thabhairt air, go háirithe ar bhonn aoise, inscne, stádas pósta, ballraíochta den Lucht Siúil, stádas teaghlaigh, gnéaschlaonta, míchumais, cineáil, náisiúntachta agus eitneachta nó reiligiúin.

I gcomhlíonadh Phrionsabal 5, déanfaidh craoltóirí an méid a leanas:

- Gan ábhar ina bhfuil íomhánna nó fuaimeanna bagracha, drochíde nó maslacha amhairc agus é a bheith ina chuspóir fuath a spreagadh nó sa chás gur dóchúil go spreagfar fuath mar thoradh i leith daoine nó grúpaí sa tsochaí, lena n-áirítear ar fhorais chineáil, chreidimh, ghnéis, eitneachta, gnéaschlaonta nó náisiúntachta.
- Gan béim a chur ach ar aois, dath, inscne, bunús náisiúnta nó eitneach, míchumas, cineál, reiligiún nó gnéaschlaonadh nuair atá údar leis na tagairtí sin agus tagairt do phrionsabail an Chóid seo agus do chomhthéacs an chraolta.
- A aithint go bhféadfaí a mheas go bhfuil úsáid téarmaí, tagairtí agus íomhánna maslach do dhaoine agus grúpaí sa tsochaí agus go dteastaíonn údar eagarthóireachta ó théarmaí coiteanna drochíde atá dírithe ar aon ghrúpa lena gcur san áireamh i gclár.
- An meas cuí a thabhairt ar thuairimí, íomhánna, cleachtais agus creidimh reiligiúnacha in ábhar cláir. Níl seo beartaithe cosc a chur ar mhionscrúdú a dhéanamh ar reiligiún trí fhaisnéis, dráma, nó cláir eile.

Prionsabal 6

COSAINT LEAS AN PHOBAIL

Tacaíonn an BAI le clár daingean agus freagrach a dhéanamh a éascaíonn breathnóirí agus éisteoirí chun tuiscint a fháil ar ábhair lena mbaineann tábhacht phoiblí agus a chuireann ar an eolas iad ar mhaithe le leas an phobail. Níor cheart caitheamh leis an mbreithniú seo i leith leas an phobail mar thástáil a úsáidtear chun cosc a chur ar shaoirse craolacháin, ach ina ionad sin, is prionsabal é a dhéanann craolachán a bheochan agus a fhreastalaíonn ar shocháí dhaonlathach.

D'fhéadfaí ábhar a dhéanann an méid a leanas a áireamh le hábhar 'leas an phobail':

- A nochtann nó a bhraitheann coireacht;
- A chosnaíonn sláinte nó sábháilteacht phoiblí;
- A nochtann maíomh bréagach nó míthreorach a dhéanann daoine aonair nó ag eagraíochtaí;
- A nochtann neamhinniúlacht daoine aonair nó eagraíochtaí a imríonn tionchar ar an bpobal;
- A nochtann mí-úsáid cistí poiblí;
- A nochtann briseadh an dlí;
- A spreagann agus a éascaíonn díospóireacht agus tuiscint ar ábhair shóisialta agus pholaitiúla;
- A chuireann an pobal ar an eolas, nó a spreagann díospóireacht, ar cheisteanna lena mbaineann tábhacht phoiblí.

Ní mór go mbeidh aird ag craoltóirí, áfach, ar cheisteanna eile lena mbaineann tábhacht don tsocháí. Go háirithe, cosnóidh craoltóirí leas an lucht féachana sa chás go bhfuil cur chun cinn leasanna aon eagraíochta mar cheann de phríomhchuspóirí sholáthar na seirbhíse craolacháin. Ní chraolfaidh craoltóir aon ní gur dóigh dó coireacht a chur chun cinn nó a ghríosú nó gur de ghné é a dhéanfadh dochar d'údarás an Stáit. Níor cheart go dtabharfaí faoi deara go leagfaidh an prionsabal seo cosc ar chraoltóirí ó chur in aghaidh beartas poiblí nó díospóireachtaí oscailte a chur ar bun faoi conas a oibríonn nó nach n-oibríonn an rialtas. Aithníonn an prionsabal seo gur féidir d'ábhar a fhágáil ar lár agus/nó ionadaíocht neamhleor a dhéanamh d'fhaisnéis nó do thuairimí drochthionchar a imirt ar leas an phobail.

I gcomhlíonadh Phrionsabal 6, déanfaidh craoltóirí an méid a leanas:

- Ní chraolfaidh craoltóir aon ní gur dóigh dó coireacht a chur chun cinn nó a ghríosú nó gur de ghné é a dhéanfadh dochar d'údarás an Stáit.
- Leas an lucht féachana a chosaint sa chás go bhfuil cur chun cinn leasanna aon eagraíochta mar cheann dá bpríomhchuspóirí.
- Gan iompar nó tuairimí a spreagadh atá go hiomlán dochrach do chosaint an chomhshaoil. Spreagtar craoltóirí chun an lucht féachana a chur ar an eolas faoi fhorbairtí maidir le ceisteanna comhshaoil ar bhealach a thugann an aird chuí ar chothromaíocht an eolais chomhaimseartha eolaíoch.
- A chinntiú go dtugtar faoi iomaíochtaí agus vótáil go cothrom faoi rialacha a gcuirtear an lucht féachana ar an eolas fúthu, d'fhonn gan an lucht féachana a mhíthreorú.

Prionsabal 7

MEAS A LÉIRIÚ AR PHRÍOBHÁIDEACHT

Aithníonn an prionsabal seo go bhfuil ceart chun príobháideachta ag daoine aonair. Beidh meas ag craoltóirí ar phríobháideacht an duine aonair agus cinnteoidh siad nach gcuirfear isteach uirthi go míreasúnta cibé acu sa bhealach a úsáidtear chun an clár a dhéanamh nó san ábhar cláir a chraoltar.

Aithníonn an prionsabal seo, chomh maith, nach iomlán an ceart chun príobháideachta. Is ionann an phríobháideacht a bhfuil duine aonair ina teideal agus é sin atá réasúnta faoi gach ceann de na cúinsí. Ní mór an ceart chun príobháideachta a chothromú i leith cearta agus cúinsí eile, ar nós leas an phobail, saoirse tuairimíochta, cearta daoine eile, ceanglais oird phoiblí agus leas coiteann. Cuirtear isteach go míreasúnta ar phríobháideacht duine nuair nach bhfuil fírinniú ann nó cúis mhaith leis an gcur isteach, agus go bhfuil sé, ar an ábhar sin, neamhcheadaithe agus míreasúnta.

Ní mheasfar gurb ionann craoladh ócáideach nó teagmhasach daoine i suíomhanna poiblí i gclár, de ghnáth, agus cur isteach neamhcheadaithe nó míreasúnta ar phríobháideacht.

Ní mór don duine gearáin faoi phríobháideacht a dhéanamh a bhféadfadh gur cuireadh isteach ar a p(h)ríobháideacht go mí-reasúnta. Féadfaidh tuismitheoir nó caomhnóir, a d'ainmnigh an duine, gearán a dhéanamh thar ceann an duine eile, sa chás cuí.

I gcomhlíonadh Phrionsabal 7, déanfaidh craoltóirí an méid a leanas:

- A chinntiú go bhfuil aon chur isteach ar phríobháideacht duine aonair i gclár nó sa bhealach a úsáidtear chun clár a dhéanamh ceadaithe, agus aird ar phrionsabail an Chóid seo, go háirithe, cosaint leas an phobail. Ní mór go mbeidh aon chur isteach den saghas sin i gcomhréir agus teoranta don mhéid a theastaíonn chun an lucht féachana a chur ar an eolas ar mhaithe le leas an phobail.
- An aird chuí a thabhairt ar choincheap an toilithe aonair agus a chinntiú go mbíonn rannpháirtithe i gcráolachán ar an eolas ar an ábhar agus ar chomhthéacs agus chineál agus fhormáid a rannpháirtíochta ionas gurb ionann a gcomhaontú chun bheith páirteach agus toiliú feasach.
- An aird chuí a thabhairt ar na breithniúcháin ar leith a bhíonn i gceist i gcás duine nó leanbh leochaileach faoi 16 bliana d'aois, lena chinntiú nach gcuirtear isteach riamh go míreasúnta ar phríobháideacht na ndaoine siúd. Daoine aonair iad daoine leochaileacha a dteastaíonn uathu go dtabharfar breis aire dóibh mar gheall ar chúinsí pearsanta nó folláine.

- Toiliú a fháil sa chás go mbíonn duine nó leanbh leochaileach faoi bhun 16 bliana d’aois i gceist go díreach le hábhar cláir, nó sa bhealach a úsáidtear chun ábhar cláir a dhéanamh. Ba cheart toiliú a lorg ón duine nó ón leanbh leochaileach, más féidir, **agus** ó thuismitheoir, caomhnóir, ionadaí ainmnithe nó duine atá freagrach as a c(h)úram príomhúil. Tharlódh nach mbeadh sé riachtanach toiliú a fháil más beagbhríoch an t-ábhar nó más mion-rannpháirtíocht atá i gceist nó, bunaithe ar thosca eile, gur ceadaíodh chun leanúint ar aghaidh gan toiliú a fháil, agus aird ar phrionsabail an Chóid seo.
- An breithniú cuí a dhéanamh ar iarratais ar aistarraingt toilithe, agus aird ar phrionsabail an Chóid seo, go háirithe, cosaint leas an phobail agus cúinsí eile a d’fhéadfadh teacht chun solais, ar nós caidreamh conarthach.
- A chinntiú nach gcuireann ábhar a athúsáid, lena úsáid in ábhar cláir éagsúil nó ar mhaithe le cuspóir eile, isteach go míréasúnta ar phríobháideacht duine aonair.
- An aird chuí a thabhairt ar an tionchar a d’fhéadfadh cumhdach agus cumhdach leantach ar bhás imirt ar theaghlaigh agus ar chairde an mhairbh.
- An aird chuí a thabhairt ar bhreithniúcháin ar leith a bhíonn i gceist nuair a bhíonn scannánaíocht á déanamh i gcásanna éigeandála nó nuair a bhíonn scannánaíocht á déanamh ar íospartaigh thimpistí nó iad siúd atá thíos le tragóid phearsanta, lena chinntiú nach gcuirtear isteach go míréasúnta ar phríobháideacht na ndaoine siúd.
- A chinntiú nach n-úsáidtear scannánaíocht nó taifeadadh amhrasach ach amháin nuair a bhíonn siad ceadaithe.