

## SUBSIDIARY LEGISLATION 350.15

### REQUIREMENTS AS TO STANDARDS AND PRACTICE APPLICABLE TO PARTICIPATION IN MEDIA PROGRAMMES OF VULNERABLE PERSONS

7th August, 2007

*GOVERNMENT NOTICE 730 of 2007.*

The title of these requirements is the Requirements as to Standards and Practice applicable to Participation in Media Programmes of Vulnerable Persons. Citation.

#### 1. Introduction and General Principles

1.1 These Requirements as to Standards and Practice have been made by the Broadcasting Authority in virtue of article 20(3) of the Broadcasting Act, Chapter 350 of the Laws of Malta.

1.2 Programme producers must avoid, for commercial purposes, all forms of exploitation of all vulnerable situations of anybody.

#### 2. The Vulnerable People

2.1 It is not easy to compile a list of people considered to be vulnerable as it could be a permanent condition or one related to a particular period in the lifetime of someone who is not normally considered to be vulnerable.

2.2 In these Requirements individuals considered to be vulnerable are children, senior citizens with certain problems, those involved in abusive relationships mainly sexual or emotional, and some, though not all, persons having a mental or physical impairment. Amongst others one could include prisoners, refugees, victims of usury, drugs and alcohol.

For the purposes of these Requirements a "child" or "children" or a "minor", unless the context otherwise requires, means a person who has not attained eighteen years of age.

2.3 This term also covers those who due to certain circumstances in life, are considered vulnerable for a given period of time. These include certain individuals who are mourning the loss of a loved one, people who have lost their job or are facing difficulties in their career, couples going through great difficulties in their relationship, people going through grave financial problems, those who are either themselves ill or involved with the sickness of their loved ones, as well as those who, for whatever reason, are feeling down, oppressed and generally going through a tough period of uncertainty.

#### 3. Practical Information

##### 3.1 Free and informed consent

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3.1.1 It is vital for such persons to give their informed consent in complete freedom before participating in programmes where their condition may be discussed. Programme producers must not in any way pressurise these people to participate. When programme producers ask vulnerable persons to take part, they should, as far as possible, make sure that participants are fully aware of the effect their participation may have on their life, when they are exposed before thousands of viewers. Producers should take the same precautions even when they are approached by sometimes very forcefully - by vulnerable people themselves who offer to participate in such programmes.

No financial inducement should ever be given to parents or guardians with the purpose of affecting their decision about whether to give their consent to the participation of vulnerable persons.

A qualified person should hold a pre-programme screening session with the vulnerable person in order to explain to such person the implications of programme participation and the effects the programme might have on such person and/or his/her dependents, particularly minor children. Such screening session should, as far as practicable, be carried out with the least formalities possible and in a welcoming environment.

3.1.2 Producers are in duty bound to check with independent sources the veracity and correctness of the stories reaching them.

3.1.3 When a considerable level of vulnerability is involved, that is, when the person concerned is seriously suffering, as well as in the case of children with some problems, there should be a qualified person present (social worker, consultant, psychologist, psychotherapist or psychiatrist), independent of the team producing the programme, to meet these people and explain clearly to them what their participation in that programme entails. The person who gives consent must be made clearly aware that in giving that consent he/she is renouncing to the right to privacy and that later it will be impossible to file a complaint concerning a breach of privacy.

3.1.4 When vulnerable persons have had or are still undergoing psychological support, the producer shall forward to the vulnerable person's therapist a signed letter, through the vulnerable person, so that the therapist provides the producer with any necessary feedback.

3.1.5 The qualified person should also be involved whenever a vulnerable person would be compensated with money or gifts for participating. In such cases, material needs or other types of needs may lead the persons involved to sacrifice their desire for privacy. The broadcaster has to make sure this does not happen.

3.1.6 If the qualified person states that it would be better if these vulnerable persons, due to their condition, do not participate in the programme, the producers of the said programme are expected always to abide by this advice where children are

concerned. However the producers are expected to consider the importance of this advice where adults are concerned, and generally abide by it. Only in exceptional cases, when vulnerable persons insist on taking part and declare this in writing, can the producers take the responsibility to invite them. In similar cases the producers must, before the programme, send to the Manager:

- i. a copy of the advice by the qualified person, as well as
- ii. a copy of the declaration made by the vulnerable person.

#### **4. The attitude of the media towards vulnerable persons**

##### **4.1 Children's Programme Participation**

4.1.1 The producer is in duty bound to ascertain that children's parents are fully aware of the consequences of their children's participation before permission from these parents is given. In the case of other children for whom it would be difficult to give their free and informed consent, permission should be granted by their guardians. (Advice need however also be sought from a qualified person, as indicated in para. 3.1.3).

4.1.2 Producers have to ascertain that although permission is granted to children to take part in a programme, this is allowed mainly for their benefit.

Producers should above all consider the need to protect children.

4.1.3 When parents or carers give their consent for the participation of children in their care, but the children themselves refuse, producers should respect the wishes of the children. In similar cases the qualified person should always be involved and asked to certify that the whole process was carried out in accordance with the procedures laid down in these requirements.

4.1.4 When children are the protagonists of a programme intended for adults and not for children, the children's parts have to be recorded.

4.1.5 When children take part in a programme, the producers have to be extra-careful to ensure that the children's interests are properly safe guarded. The producers must pay particular attention to the fact that very young children find it difficult to discern between reality and fantasy and are not always able to choose between truth and gossip.

4.1.6 Programmes aimed at establishing the identity of the natural parents of children, including adopted ones, may not be broadcast. Moreover, where programmes or parts thereof deal with the subject of adoption such programmes or parts thereof are to be aired after the watershed and no repeats of such programmes or parts thereof shall be broadcast prior to the watershed. The same applies to programme promotions of such programmes dealing with adoption. For the purpose of these Guidelines, the watershed means between 9:00p.m. and 6:00a.m.

4.1.7 Whenever any child who has any form of problem

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participates in a programme, the station shall ensure that Aġenzija Appoġġ or any other specialised agency authorised by the Authority is contacted for its clearance for the participation of such minor vulnerable person and that Aġenzija Appoġġ or such other agency draws up a written report to be presented to the station in question.

Moreover, Aġenzija Appoġġ or such other agency shall be given access to monitor programme production at any stage if it so deems necessary. Similarly, children should also be afforded protection even though it is their parents and not themselves who appear on a television programme and such parents discuss any problem which might in one way or another affect directly the well-being of their children.

4.1.8 Broadcasters should bear in mind, when drawing up programme schedules, that children have a right to be safeguarded more than any other person. Hence, normally children who have some problem should not be invited to participate in a programme to discuss their own particular problems. By way of exception, should the station be of the opinion that a child's participation be beneficial to such child, then the station should refer such case to Aġenzija Appoġġ or such other agency in terms of the preceding paragraph. Children should be permitted by stations to participate in such programmes only when the provisions of the preceding paragraph have been complied with.

4.1.9 The provisions of paragraphs 4.1.1 to 4.1.8 shall also apply to other vulnerable persons who have reached majority age but are incapacitated in terms of the provisions of article 520 of the Code of Organization and Civil Procedure or under parental care and custody or tutorship.

4.1.10 The following additional requirements shall also be followed:

- i. such pre-screening session has to take place at least one week prior to the date of filming except in the case of L-Istrina where such screening has to take place at least one month prior to the date of filming so that in this latter case the necessary consent verifications may be made;
- ii. no pre-screening session shall take place where the child is less than three years. Should a child of less than three years appear on television, the child's face shall be totally blurred so that the child cannot be identified;
- iii. where a child is filmed overseas but subsequently participates in a local programme and the overseas film is used during such a programme, a pre-screening session will still be required;
- iv. when parents/tutors consent to the appearance or participation of children in the broadcasting media such consent should be in writing and deposited with

Aġenzija Appoġġ, the broadcasting station in question and the Broadcasting Authority;

- v. the attached handout is distributed to both the children, where applicable, and parents/tutors prior to the screening session so that they are made aware of what the pre-screening session is intended to achieve;
- vi. the attached Pre-Screening Session Request Form detailing the child's participation is filled in and copies are to be handed in to Aġenzija Appoġġ before the pre-screening session, to the station concerned and to the Broadcasting Authority;
- vii. both the Pre-Screening Request Form and the Consent Form have to be duly filled and signed in triplicate before being forwarded to Aġenzija Appoġġ, the broadcasting station and the Broadcasting Authority.

#### 4.2 Reference to third parties

4.2.1 Participants invited in a programme to tell a story cannot be allowed to refer to persons who are easily identifiable but who would not be present in the studios or who would not have given their prior consent to be so mentioned. It is not acceptable, for instance, to have participants say that parents, brothers or sisters or other individuals are no longer on speaking terms with them and that they would like to be reconciled with them, without respecting the right such people have not to be mentioned if they would not have given their prior consent.

#### 4.3 Group rights

4.3.1 Producers should care not only for the rights of the individual who is participating in a programme but also to the rights of others who are in a similar situation but are not participating in the programme. It may be for example that an individual with a disability taking part may derive some personal benefit such as a cash gift. Producers should at all costs try to prevent that this is not misinterpreted and that these individuals are neither "victims" nor "innocent beings". Producers should adopt this attitude not only to individuals with a disability but also to any group of individuals considered vulnerable.

#### 4.4 The use of close-ups

4.4.1 The use of close-ups (CUs) undoubtedly helps to render a television programme intimate in style, thereby increasing audience participation. But CUs can also constitute an invasion of privacy. For this reason, producers should avoid CUs when these are reasonably considered to amount to an invasion of privacy or when there are facial/physical defects.

#### 4.5 Anonymity

4.5.1 When participants are promised anonymity, it is important that this understanding is strictly adhered to. For individuals to be protected it is often necessary to conduct the programme in such a way that the person concerned cannot be

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recognized by the public in general and sometimes not even by friends or family.

In order to achieve this it is often necessary to change both the audio as well as the visual image. Very frequently it would be better to use a voice over by another person and/or utilize the services of an actor rather than use distortion. In such cases, the audience should be informed of the technique adopted.

4.6 Persons suffering from a terminal illness, etc.

4.6.1 Persons suffering from a terminal illness or from acute physical conditions may participate in programmes only when their participation is such as to instil hope and inspiration in audiences watching them. When the station fears that the principal effect of such vulnerable persons' participation will be such as to instil a sense of pity, such participation will not be considered permissible. Stations should be guided by the principle of respecting human dignity and avoiding focusing upon situations where people's suffering is unduly emphasised and sensationalised.

4.7 Doorstepping

4.7.1 Doorstepping or the approaching without any prior notice of any vulnerable person with regard to anything concerning his/her vulnerability shall not be permissible and stations shall desist from such conduct.

4.7.2 Nor shall doorstepping be allowed where third parties are requested to comment on the vulnerability of any vulnerable person.

4.8 Interpretation of requirements

4.8.1 In the interpretation of these Requirements, stations shall ensure that the spirit of these requirements is adhered to and any interpretation given should always be in the best interest of the vulnerable person.

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*FORMOLA GHAL TALBA BIEX ISSIR SEDUTA LI TGHARBEL  
 PRE-SCREENING SESSION REQUEST FORM*

Isem ta' l-Istazzjon: <i>Name of Station:</i>		
Data u hin maħsuba għax-Xandira: <i>Date and Time of Intended Transmission:</i>	Nhar: <i>On:</i>	Fi: <i>At:</i>
Isem u Kunjom tat-Tifel/Tifla li ser jattendu għas-Seduta li Tgharbel: <i>Name and Surname of Child to be Screened:</i>		
Età tat-Tifel/Tifla li ser j/tattendi għas-Seduta li Tgharbel: <i>Age of Child attending the Pre-Screening Session:</i>		
Tul tad-Dehra fil-Programm: <i>Duration of Appearance:</i>		
Natura tad-Dehra fil-Programm: <i>Nature of Appearance:</i> ..... ..... .....		
Jekk il-programm hux dirett jew irrekordjat: <i>Whether the programme is live or recorded:</i>	Dirett <i>Live</i> <input type="checkbox"/>	Rikordjat <i>Recorded</i> <input type="checkbox"/>
Jekk il-Ġenituri/Tuturi tawx il-kunsens tagħhom għad-dehra tat-Tifel/Tifla: (Egħmeż kopja tal-Formola tal-Kunsens) <i>Whether parents/tutors gave consent for child's appearance:                  (attach copy of Consent Form)</i>	IVA YES <input type="checkbox"/>	LE NO <input type="checkbox"/>



<p>3. Is-seduti huma mmirati biex ikunu mharsa l-ahjar interessi tal-minuri (dawk taht it-18-il sena) jew persuni adulti vulnerabbli li jkunu ser jigu esposti fi programmi fuq il-mezzi tax-xandir. Dawn is-seduti huma intenzjonati biex inaqqsu r-riskju ta' hsara li tista' ssir lit-tfal / persuni vulnerabbli u biex dawn jibbenefikaw kemm jistghu mill-partecipazzjoni taghhom fil-programm.</p> <p>4. Matul is-seduta mal-professionist/a minn APPOĠĠ, dan/din j/tispjega l-implikazzjonijiet kollha possibbli li jistghu jirrizultaw permezz tal-partecipazzjoni taghhom u/jew tat-tfal taghhom fi programmi fuq il-mezzi tax-xandir.</p> <p>5. Seduti jsiru wkoll meta tkun il-persuna stess (kemm minuri kif ukoll adulta) li titlob biex tidher fil-programm.</p> <p>6. Matul is-seduta jkun hemm enfasi li l-persuna, kemm minuri kif ukoll adulta, tkun tat il-kunsens taghha minghajr ebda pressjoni.</p> <p>7. Fil-każ ta' minuri, min itella' l-programm hu mistenni dejjem li jimxi ma' dak li jirrizulta mis-seduta mmexxija mill-professionist/a minn APPOĠĠ, li j/tkun ra/t l-ahjar interess tat-tfal.</p> <p>Procedura tas-seduta:</p> <p>1. Il-proċedura tas-seduta tkun spjegata lill-minuri / persuna adulta vulnerabbli u lill-ġenituri/tuturi.</p> <p>2. Il-professionist li jmexxi s-seduta jaghti spjegazzjoni dettaljata tal-formula ta' kunsens li l-ġenituri/tuturi jehtieg li jiffimaw biex jkun jista' jibda' l-proċess tas-seduta.</p> <p>3. Il-persuni li jakkumpanjaw lill-minuri/persuni vulnerabbli għandhom ikunu dawk li legalment ikollhom il-kura u kustodja taghhom. F'ċerti każijiet tista' tintalab biex tintwera prova ta' dan.</p> <p>4. Il-professionist imexxi s-seduta mal-minuri/persuna vulnerabbli wehidhom. Hija għad-diskrezzjoni tal-professionist jekk il-ġenituri/tuturi jkunux preżenti għas-seduta jew le.</p>	<p>3. The screening sessions are aimed to safeguard the best interests of the minor (those under 18 years of age) or vulnerable adult person who would be about to be exposed in media programmes. Such interviews aim to minimise the potential of harm to the children and to maximise any benefits that they may gain through participation.</p> <p>4. During the session with the Apport professional worker, the latter explains all the possible implications involved in him/herself and/or his/her children due to his/her exposure on the media.</p> <p>5. Screening sessions also take place when it is the vulnerable person (both minor and adult) who approaches the producer.</p> <p>6. During the screening session it is emphasised that the person's informed consent, be it a minor or an adult, is given without any pressures.</p> <p>7. In case of minors, producers of the programme are always expected to abide by the assessment of the professional worker, who sees what is in the best interest of the child.</p> <p>Procedure of the screening session:</p> <p>1. The procedure of the screening session is explained to the vulnerable adult persons and/or minor and parents/carers.</p> <p>2. The professional worker gives a detailed explanation of the consent form that the parents/carers need to sign for the screening process to take place.</p> <p>3. The persons accompanying the minor/vulnerable person should be the legal parents/carers. In certain cases, proof of custody might be requested.</p> <p>4. The professional worker carries out a session with the minor/vulnerable person alone. It is at the professional worker's discretion whether the parents/carers should be present during the screening session or not.</p>
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<p>5. Ir-riżultat tas-seduta tkun spjegata lill-ġenituri / tuturi u lil min itella' l-programm.</p> <p>6. Il-professjonist ta' APPOĠĠ iħejji u jiffirma rapport. Kopja ta' dan ir-rapport tinghata lill-Awtorità tax-Xandir, lil min itella' l-programm, lix-xandar u lill-ġenituri / tuturi. Kopja oħra tinżamm mill-Aġenzija APPOĠĠ għall-fini ta' referenza.</p> <p>L-Att dwar il-Protezzjoni u l-Privatezza tad-Data ikun segwit f'kull stadju tal-proċedura msemmija hawn fuq.</p>	<p>5. The outcome of the screening session is explained to the parents/ carers and the programme producers.</p> <p>6. A report is prepared and signed by the Appoġġ professional worker. A copy of the report is passed on to the Broadcasting Authority, the producers of the programme, the broadcasting station and the parents/carers. A copy is also kept for reference purposes by Agenzija APPOĠĠ.</p> <p>The Data Protection Act is followed in all stages of the above procedure.</p>
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