

Catalan Audiovisual Council Considerations and Guidelines about *Trash TV*

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The Catalan Audiovisual Council (CAC), aware of the proliferation of so-called *Trash TV* in television programming and its importance socially, has determined the following considerations and prepared the corresponding guidelines on this issue:

Considerations

I. The nature of *Trash TV*

1. The term *Trash TV* is generally applied to a series of television programme styles, not a specific TV genre. For this reason, though we all generally interpret and apply the term adequately, establishing a concise and universally-accepted definition which also incorporates its full complexity is no easy task.
2. *Trash TV* is not a specific television genre nor is it limited exclusively to the entertainment category though the latter is where its primary excesses are noted the most.
3. The macro-genre of reality programming with its talk show and reality show formats (the latter consisting of participants living together, sequestered from the outside world and under constant supervision) is generally the basic platform in which the predominant forms of *Trash TV* can be seen. However, some

of these characteristics also appear in other television spaces which are presented as pseudo-journalistic programmes.

4. When certain reality shows, gossip programmes, infotainment, contests or other formats are referred to as *Trash TV*, what qualifies them as such is not their specific genre but, rather, the **degradation** which occurs in particular cases and in specific programmes.

5. This degradation occurs with the convergence of a series of programming factors making it be considered *Trash TV*. The **majority of these factors are related to the violation of fundamental rights or not having any consideration whatsoever for democratic or civic values** such as the blatant scorn for treating others with the dignity all humans merit, **barely or not at all respecting the right to privacy or using loud, rude and obscene language**. Oftentimes, the aim of these programmes is to convert the life of certain personalities into a show, generally with their consent. The latter allow themselves to be manipulated in exchange for remuneration or the celebrity status conferred upon them by virtue of appearing on television.

6. To increase their ratings over the short term, some channels broadcast programmes with cheap, easy-to-produce content, programmes which easily violate the right to privacy, use violent language and reinforce sexual stereotypes. As such, *Trash TV* can create a particular “star system” which soon colonises the entire programming schedule, a fact which leads to the hybridisation of genres and formats. This content, then, is reproduced within television programming and can have a powerful influence, dragging other programmes with it.

7. *Trash TV* can weaken the formal respect people have for others, make expressions and gestures which foment violence seem natural and encourage

the perception among audiences that it is easy to become famous without effort or merit. All in all, *Trash TV* is especially severe for the influence it can have on children, adolescents and young adults whose personalities are still in the formation process and who are especially vulnerable to manipulation, encouraging them to adopt models which separate efforts from results and ideologies associated to trivialisation and the belief that everything is easy.

8. Similarly, other television formats can be considered *Trash TV*, including those which are simplistic, capable of prejudicing certain sectors of the audience because they exploit their credulity and appeal to their morbid curiosity or which can lead to imitative or addictive behaviour. This type of *Trash TV* has flourished especially in environments such as local television which has not been considered in an appropriate legal framework as has occurred with the requirements set for major television broadcasters.

9. Other *Trash TV* elements can also be seen in spaces or reports emitted in supposedly informational programmes which hide surreptitious advertising, which aim to benefit the private interests of unidentified sectors or lobbies and which incite xenophobic prejudices or the proliferation of racial stereotypes and other phobic content.

10. Television has become a fundamental axis for an increasingly important industry but whose products are not habitually subject to any type of quality control. Simultaneously, television has become a key space in which to develop public opinion, the primary instrument for political influence and the scenario for the battles over social and cultural hegemony. The allusion to the fundamental right of free expression is what serves to avoid the control mechanisms which might ensure quality or the plurality of offering and the effective freedom of expression and information (both the information broadcast and consumed) among citizens.

II. The value of personal freedom and dignity

1. Those defending or justifying these types of programmes do so by referring to the freedom of expression and giving the audience what it wants. In addition, any attempt to denounce the inopportunity or unacceptability of *Trash TV* is interpreted as censure and contrary to the foundations of a State of Law.

2. Individual personal freedom is, in effect, the priority value of democracies. But the right to act freely has associated costs: the risk of abusing this freedom to the detriment of others' freedom. In this case, the abuse of freedom is not morally legitimate. **We cannot do anything we want under the guise of the freedom of expression.** The latter is limited constitutionally by the obligation to respect people's privacy, the right to one's honour and the protection of personal reputation and by the necessary protection of children and adolescents. Unauthorised intromission into the private lives of others is precisely one way of diminishing their rights.

3. At times, it is the people whose very privacy is violated that voluntarily consent to being the object of the communications media. There are "celebrities" who would not be such without having previously made their own lives a commodity to be bought or sold; this enables communications media to turn privacy into a show.

4. Up to what point can we permit or how can we keep people from abusing their own freedom? Only one answer seems possible: **freedom is not the only value that has to be respected.** In addition to freedom, human beings have dignity, and a fundamental aspect of this dignity is precisely referred to protecting one's privacy. When television programmes offer a disrespectful portrayal of certain people's privacy, whether or not they consent, the value of personal privacy and dignity is publicly depreciated. Audiences are confused about the value of these, and the protection of people's basic and ethical principles are

depreciated as is their social dimension. In addition, from a legal point of view, choosing to make aspects of one's private life public, whether or not for remuneration, does not imply losing the right to privacy which can later be exercised at any given time.

5. Both personal freedom and privacy are fundamental values recognised by the Declaration of Human Rights and the Constitution, defining both as unalienable rights which are a part of the individual's very essence. Renouncing these implies renouncing one's own very dignity. The obscene exhibition of one's own life does not only violates the dignity of the person doing so; it also affects the family and social setting surrounding the person *being exhibited*, especially any minors under this person's charge.

III. On the right to inform and receive information

1. Another argument often used by broadcasters of *Trash TV* content and their defenders is the citizens' fundamental right to be informed. While true that the people who habitually appear in these spaces end up becoming publicly well-known, even if this is only due to their constant appearance in the media, the anecdotes, rumours or gossip provided about the private lives of these "celebrities" cannot be mechanically linked to satisfying the right to information.

2. Similarly, there is often a frivolous comparison between those that tend to moderate or participate in these types of programmes and those that, as professional journalists, are subject to the limits and demands of the corresponding professional precepts and ethics. The Col·legi de Periodistes de Catalunya has discredited this type of *pseudo-journalism* which consists of "following, harassing and making fun of supposedly famous people based on inviting them to explain the details of their own private lives."

3. The freedom of expression and the right to information recognised in Article

20 of the Constitution is one of the fundamental pillars of a democracy which aims to guarantee people the right to express their opinions and ideas and guarantee the communications media and professionals the ability to freely inform citizens while being committed to do so truthfully. However, it is clear that these rights are not unlimited when they affect individuals' private lives or the general interests which are subject to special protective measures.

4. The Constitution establishes that a person's honour, privacy and the protection of personal reputation are fundamental rights. Western legal tradition also establishes that the freedom of expression and the right to inform cannot harbour libellous, slanderous or degrading manifestations; nor can they violate privacy even if referring to public personalities. The European Court of Human Rights (TEDH 2004/45, dated June 24th) has argued that informing and revealing data regarding the private lives of public personalities is only licit if it contributes to society's general interest. This interest has to be objective and serious. Aiming to satisfy certain individuals' morbid curiosity with gossip and details regarding the private lives of people with certain public notoriety is insufficient.

IV. On television broadcasters' obligations and the general interest

1. The legal framework derived from the Constitution, amongst others, defines television broadcasters' obligations with respect to programme contents. According to Spanish Law 4/1980, which regulates radio and television broadcasters, the principles which have to inspire the communications media and its actions are: "the respect for honour, reputation, people's private lives and the set of rights and freedoms recognised by the Constitution" (Section 1, Article 1).

2. In this same sense, Spanish Law 10/1988, on private television broadcasters, determines that the violation "of current legislation regarding the right to

honour, privacy and the protection of one's personal reputation" is an infringement (Letter c, Section 1, Article 24). This Law also determines that the management of these concessionary companies has to be inspired on the same principles as those established in the previous Law 4/1980. As such, private television broadcasters are not exempt from the same obligations in this area.

3. Article 80 in Law 22/2005, on audiovisual communications in Catalonia, establishes that, among the "basic principles of audiovisual content regulation" is "the respect for dignity as an essential trait of human personality" and the "respect for the rights of people recognised by the Spanish Constitution, in particular, the fundamental rights to honour, privacy and the protection of one's personal reputation." It also refers to "clearly separating information from opinions and respecting the principle of truth when transmitting information," considering *truthful* information to be "the result of diligent verification of all the facts."

4. The European Commission in its Communication on the Services of General Interest (2001) indicated: "The broadcast media play a central role in the functioning of modern democratic societies, in particular in the development and transmission of social values. Therefore, the broadcasting sector has, since its inception, been subject to specific regulation in the general interest. This regulation has been based on common values, such as freedom of expression and the right of reply, pluralism, protection of copyright, promotion of cultural and linguistic diversity, protection of minors and of human dignity, consumer protection." In this same sense, the European Parliament's Resolution on Communications (2001) argues that, "...a specific approach should be taken to audiovisual services – irrespective of the type of audiovisual broadcast, whether public service television, private television, video streaming, etc. – and culture in order to achieve objectives such as the protection of fundamental rights and democratic principles, pluralism, access for all to culture and technological progress, the right of reply, cultural and linguistic diversity and the protection of users and of minors in particular."

5. It is generally recognised that the public service concept needs to be revised and redefined. In terms of Catalonia, this was done by the Law on Audiovisual Communications in December 2005, defining the conditions and special obligations governing public service television broadcasters as opposed to private televisions. However, it is clear that **communications constitute a public good** which affects the general interest and, as such, its exercise **has to be carried out with commitment and responsibility**. The latter requires that broadcasters accept and assume a **respect for civic values and fundamental rights such as the right to honour, privacy and the protection of one's personal reputation**. In addition, the fact that a television broadcaster has to obtain a licence confers upon this company a singular situation: the ability to broadcast messages for very broad and diverse audiences. This increases their responsibility to offer decent content.

Due to its relation with the question of broadcaster responsibilities, worth remembering is the Catalan Audiovisual Council's *Declaration on the Exercise of the Right to Freedom of Information and the Freedom of Expression*, dated December 21st, 2005.

6. Oftentimes, there is an attempt to identify “what the audience wants and demands” with a supposed “public interest,” representing an attempt to confuse the notion of *public service* with a popular and banal interpretation. But they are two radically opposed concepts. *Public service* has to be understood as concerned with the *general interest* or achieving social objectives. This does not necessarily or exactly coincide with programmes whose goal is merely to capture the attention of specific audiences and any related benefits.

7. Similarly, broadcasters excusing themselves, indicating that their programming corresponds to what the public wants or demands, are not very rigorous. The television programmes on offer have historically conditioned and continue to condition consumption demands and habits. Television is not an interactive

medium; by nature, it is an essentially one-way medium which does not receive any message from television viewers other than that indicated by devices to measure audience levels or by the conditioned and predetermined types of participation made possible by new technologies.

V. On the social repercussions of *Trash TV*

1. There are two ways to judge or ethically evaluate human actions: first, by their compliance or coherence with fundamental principles or rights; and, second, by the consequences of these actions which may offend, provoke discontent or prejudice certain sectors of society. The programmes characterised as *Trash TV* clearly contradict fundamental rights such as the respect for a person's privacy and dignity or they constantly push the limits and border on the violation of these rights. However, we should also consider up to what point these programmes not only prejudice the people involved in them but, also, the audience as a whole.

2. It is difficult to demonstrate that given television programmes are detrimental for people. These programmes do not tend to be products with tangible and immediate effects. The harm they may cause is not physical, but psychological or moral, and these are difficult to verify as they involve very subjective evaluations. In addition, the risks and impact implied by these programmes are also accumulative in nature and related to their ability to displace the parts of reality they don't address and which, in contrast to the universe they repeatedly portray, are relegated beyond the reach of the general public. As a result, they are removed from the set of elements with which public opinion is formed.

3. At a minimum, a clear distinction has to be made between adult audiences (primarily mature and with the resources to critically view any content broadcast) and those segments at risk or potentially less protected. Among these are

seniors, especially if they live alone, but, in particular, children and adolescents, individuals whose personalities are still in a formative stage.

4. For this reason, European Directives and laws prohibit broadcasting scenes or messages which may “seriously” prejudice the physical, mental or moral development of minors. They impose the obligation to exclude any programming during protected time slots which “in any form” can prejudice minors’ development.

5. Given these considerations, the conclusion that programming which both systematically and repeatedly violates or is about to violate fundamental rights will also probably violate minors’ development cannot be considered subjective. This is especially true if this programming uses disrespectful, vulgar or violent language and if these programmes trivialise and/or naturalise a disrespect for the sense of civic responsibility or peaceful coexistence which inspire the educational system itself.

6. Lastly and regardless of the specific prejudicial capacity these programmes may have, CAC feels that it is neither reasonable nor acceptable, in general, for broadcasters to opt to explicitly violate their priority public service functions and their service to the general interest by virtue of their licence to offer television programming and the latter being hegemonic and addressed to an audience based on the programme’s ability to mobilise attention and its cost/benefit performance.

Guidelines

In line with the above considerations, the Catalan Audiovisual Council offers the following **guidelines**, addressed especially to television broadcasters and programmers:

1. In accordance with current legislation, television broadcasters, whether public or private, have to refrain from any programming which may violate individual rights or which may seriously prejudice the physical, mental or moral development of minors. The difficulty implied in establishing exact limits of what is and is not legally admissible in each situation requires that broadcasters count on qualified assessment and that they adopt specific professional criteria regarding this question, thus avoiding any possible risk of violating current legislation and providing the television audience with sufficient guarantees.

2. Public broadcasters have to expressly and completely reject producing and programming any content which we have defined as *Trash TV*.

3. In addition to strictly fulfilling the Law as regards the respect for individual privacy, **self-regulatory** and **co-regulatory** agreements should be enacted. These agreements could be between different broadcasters, serving as an effective mechanism to guarantee strict compliance with current legislation and to establish a reference framework of ethical values with which to adopt firm commitments between broadcasters and with regulatory authorities and the audience.

4. Competition between broadcasters is an insufficient factor to favour programming free of any harmful content. Public broadcasters are required to set quality as their objective and to aim to achieve it by means of the commitments acquired in their respective contracts. As regards private broadcasters, they should publicise their objectives to the audience by means of a public letter or any equivalent means, detailing their commitments to the television audience, and that they periodically report on the level of their fulfilment of these commitments.

5. Creating an ombudsman for television viewers may be a useful tool to implement a culture of responsibility and the demand for internal self-control.

6. Journalistic content programmes, that is, those which include news items or those which due to their format, staging, discourse and any other identifying feature lead the audience to believe that they are journalistic programmes, have to assume the professional requirements and guarantees established within journalistic code of ethics.

7. As such, gossip or entertainment programmes which often present themselves as journalistic programmes and don't respect the principle of providing truthful information (opting instead for rumours and defamation) are not acceptable.

8. Journalistic programmes have to avoid giving excessive attention to the topics and characters typical of what is generally referred to as *Trash TV*. The disproportionate focus on these leads to the trivialisation of journalistic programmes, in general, and tends to erase the line separating truly informational programmes inspired by rigour and the desire to inform from those which are expressly characterised by unnecessary dramatisation, exaggeration, insinuation and other factors which have no other objective than to maximise their audience figures.

9. Given the public transcendence of their role and the limited number of existing broadcasters, private broadcasters need to make their economic profitability compatible with socially responsible objectives.

10. Generalist public broadcasters have to provide a varied offering which, during protected time slots, ensure the specific needs of children and adolescents and, in general, the diversity of audiences they address. Especially among public channels, programmes based on contests in which minors take on the role of adults are not acceptable. Similarly, scheduling based on colonising TV programming, that is, a single successful format, or giving preference to a single audi-

ence segment are not acceptable as these techniques represent limitations on the part of reality represented and lead to the objective reduction of pluralism.

11. It is worth remembering that broadcasters have to adopt clearly identifiable content rating systems. Ratings for television programmes broadcast live have to include the entire nature of all the content presented. In any case, the rating adopted will be understood as the explicit limit the broadcaster has imposed for the entire programme while being broadcast.

12. The choice of moderators, presenters, guests and/or habitual or occasional collaborators represents the first level of a programme's orientation. As such, in addition to the individual responsibility of those participating in entertainment, participatory, gossip, infotainment or similar programmes, the broadcaster also has to assume responsibility for the due fulfilment of established legal and ethical limits.

13. The afternoon time slot is more likely to have an audience consisting of children and adolescents. As such, this slot has to be subject to **special attention and protection**, avoiding content which is incompatible with the aims of the educational system or content which contradicts the system's principles. This is especially true in terms of content presented as challenges, which are irreverent and free of criteria. The following types of programmes or situations should be eliminated:

- those which use family conflicts or any other type of conflict as a spectacle, disconcerting minors;
- those which systematically use obscene and vulgar language to denigrate people, groups or institutions;
- those which offer an exaggerated and gratuitous representation of physical, psychological or verbal abuse;
- those which spread rumours or falsehoods; and
- those which shamelessly exploit others' pain when faced by adversity.

14. Broadcasters have to ensure that the SMS messages or any other type of visual or audio messages broadcast are adequately filtered. Broadcasters have to assume all responsibility for these with the audience.

15. Article 11 in the *General instructions on the protection of children and adolescents, programme age ratings and the right to information of television service viewers* (DOGC 4275, 7/12/2005) establishes that:

“1. Programme promotions with superimposed images or text have to be identified at all times while being broadcast in accordance with the promoted programmes’ age ratings.

2. The content of programme promotions aired between 6 am and 10 pm have to respect the “suited for all audiences” rating.”

Similarly, this obligatory norm regarding programme promotions aired during the protected time slot should be extended to rebroadcasts of scenes or sequences from programmes rated as suitable only for those over 18.

16. Generally, collaborative agreements or contracts should be signed with all those invited to take part in these programmes. Said contracts should include clauses guaranteeing that their dignity will not be violated and guaranteeing them the right to make decisions and rescind said contract.

17. Lastly, CAC feels that broadcasters should avoid recurring to practices which may easily be considered violations of the right to privacy. This is the case with forced participation in programmes, obtaining images or voice recordings without the express authorisation or by entrapping the people involved, individuals calling programmes broadcast live, airing images captured by means of hidden cameras, and other similar practices which are often not justified by the public’s interest in the material obtained nor the affected parties.