

A CODE OF PRACTICE BETWEEN RTE AND FMI ON TELEVISION PROGRAMME PROPOSALS

To encourage the confidence of independent producers and the free-flow of material within the broadcasting sector of Ireland's creative industries, the following Code of Practice is proposed for the receipt and acknowledgement of 'Creative Material'.

The Code of Practice will apply to any professional person or company not employed by RTE who originates and owns Creative Material and submits it to RTE in accordance with this Code.

In adopting this Code we recognise that similar, if not identical, creative material may be submitted to RTE by different Originators and by RTE in-house sources at different times. This Code does not restrict the freedom of RTE to select the best creative material from the best talent whether external or internal in accordance with RTE's commissioning and scheduling priorities which may change from time to time.

Definitions

Creative Material

Creative Material means distinctive and original proposals (which may include distinctive and original formats, treatments, scripts, outlines, development documents, tender submissions, storylines, artwork, and synopsis) which are submitted to RTE by Originators as proposals for television programmes.

It is not intended to cover unformulated ideas or indistinct and unoriginal material.

An Originator

An Originator is a professional person or company who originates and owns Creative Material, and who wishes to offer such Creative Material to RTE. A professional person or company shall include those belonging to a relevant trade body such as Film Makers Ireland.

Scope

This Code of Practice applies to:

Any professional person or company not employed by RTE who originates and owns Creative Material and submits it to RTE in accordance with this Code.

The Code

The principal objective of this Code is to support Creative Material being treated, and being seen to be treated, in a fair and honest manner by both the Originator and RTE.

This principal objective recognises that similar, if not identical, creative material will be submitted to RTE by different Originators and by RTE in-house sources, sometimes simultaneously, sometimes not. In dealing with this, RTE will respect the confidentiality of Creative Material submitted to them but will be free to select the best creative material from the best talent whether external or internal, in accordance with RTE's commissioning and scheduling priorities which may change from time to time.

To that end, Originators of Creative Material understand the difficulties which RTE experiences, and will submit Creative Material in the most appropriate form to maximise fair and honest treatment.

Likewise, RTE understands the importance which Originators attach to the value of their Creative Material, and will ensure there are simple and transparent systems which demonstrate that their Creative Material is treated in a fair and honest way.

Procedures

By the Originator

When presenting Creative Material to RTE, the Originator will, where possible, ensure the following:

- 1) that Creative Material submitted to RTE is stated in writing as being submitted in confidence;
- 2) that the Originator retains an exact copy of the Creative Material submitted, and written details of the date of submission, and the name of the person in RTE to whom it was submitted. The Originator will check with RTE prior to making the proposal to check whom the submission should be addressed to and will submit the proposal to that person. An Originator may also wish to formally register the documentation at the time of the submission with a registration or legal representative;
- 3) that Creative Material is in writing and its distinctive and original features are clearly identified.

By RTE

By adopting this Code, RTE accepts that it will observe procedures which ensure that it observes due confidentiality of Creative Material until any superseding agreement

concerning the use of Creative Material is reached between RTE and an Originator. In particular, where RTE originates its own creative material, RTE will establish internal procedures which distinguish the source of the origination of such creative material.

This will be especially difficult for in-house strands which use Creative Material from a variety of Originators, and which are assessed by the same Commissioning Editor or editorial representative. In these circumstances, RTE will be sensitive to the need to deal fairly and quickly with submissions, to avoid any impression of RTE failing to recognise the origination of Creative Material submitted by Originators.

When receiving Creative Material, RTE will, where possible, ensure:

- 1) that confidentiality will be observed by RTE in the receipt and appropriate internal review of Creative Material. For this purpose Originators recognise that in the normal course of business Creative Material may need to be copied on a restricted and confidential basis within the RTE organisation to those responsible for assessing or approving commissioning work or services based upon Creative Material ("Relevant Individuals"). RTE will observe any reasonable restrictions on the circulation of Creative Material which may be specified by or exceptionally agreed with an Originator but in the absence of such agreement circulation to Relevant Individuals will be acceptable practice;
- 2) that all Creative Material is logged on receipt, by reference to title, date, Receiver's name and such receipt is acknowledged by RTE as soon as possible thereafter;
- 3) that RTE thereafter provides a response indicating rejection or a wish to continue to consider the Creative Material, (within such reasonable time frame as RTE may publish from time to time), unless the Creative Material is submitted in response to particular tender, when the published timetable for dealing with relevant submissions will apply.
- 4) If Creative Material is rejected, RTE will upon request use reasonable endeavours to return any and all original materials supplied by the Originator.

Parallel Commissioning

Where RTE has to assess Creative Material submitted by one or more Originators alongside internally originated creative material, it is recognised that perceived conflicts of interest may arise so RTE will make best endeavours to ensure that the procedures set out above will be observed.

Development

Where RTE commissions an Originator to undertake development work, specific contractual terms will be agreed to deal with the ownership of Creative Material and the

development work. The terms of any such agreement shall then supersede the relevance of this Code concerning any further use of the relevant Creative Material.

Verbal/E-Mail submissions

Creative Material which is proffered to RTE verbally or by e-mail will not be within the scope of the Code.

Dispute Procedures

A major objective of this Code is to minimise the likelihood of disputes concerning ownership of Creative Material.

If an Originator has a complaint concerning alleged unauthorised use by RTE of Creative Material submitted to RTE in accordance with this Code, the Originator and RTE will initially attempt to resolve any disagreement through exchange of documentation and discussion.

In the absence of such resolution, the Originator will either directly, or (when appropriate), through the relevant executive or official of the Originator's trade association, contact the appropriately senior person or persons nominated by RTE to obtain clarification of the basis upon which the Originator's Creative Material was received, logged and responded to as provided by this Code.

It is hoped that any dispute will be resolved at this stage. However, beyond the above procedure, this Code shall not otherwise restrict the legal rights of an Originator or RTE relating to matters to which the dispute relates.

Review

The terms of this Code shall be applied by signatories with effect from 1 March 2001 or the date of formal adoption (if later).

Representatives of the signatories shall convene a meeting not less than once in each calendar year to assess the implementation of the provisions of the Code.

Appendix A

TELEVISION PROGRAMME PROPOSALS CODE OF PRACTICE

NOMINATED SENIOR REPRESENTATIVES FOR RTE

RTE

Clare Duignan – Head of Production, RTE

Signature: Clare Duignan

Date: 16/5/2001

Mike Kelly – Manager, Independent Productions Unit, RTE

Signature: Michael Kelly

Date: 16/05/01

Signatories of Code on behalf of Film Makers Ireland

Tania Banotti – Director of Film Makers Ireland

Signature: Tania Banotti

Date: 16.5.2001

James Hickey – Chairperson, Broadcasting Sub-Committee FMI

Signature: James Hickey

Date: 21/05/2001