



THE ALLIANCE FOR THE
PROTECTION OF COPYRIGHT

The APC Code of Practice

for the submission of film
and programme proposals
for the UK film, radio,
podcast, digital and
television industry.

**Participating
organisations
which have adopted
the APC Code
of Practice**

BECTU
British Broadcasting Corporation
Channel Four Television
Channel 5 Broadcasting Limited
Directors UK
ITV Network Limited
Musicians' Union
National Union of Journalists
Pact
AudioUK
The Society of Authors
Writers' Guild of Great Britain
S4C

The APC Code

Introduction 2

The purpose of the APC Code of Practice	2
What is covered by the Code?	2
To whom does the Code apply?	3

The Code 4

Objectives	4
Obligations of those submitting proposals	4-5
Obligations of those receiving proposals	6
In-house proposals	7
Development of a proposal	7
Dispute procedures	8-9
Review	9

Introduction

The purpose of the APC Code of Practice ('the Code')

- To encourage the free flow of ideas and proposals within the film, radio, podcast, television, digital and the broadcasting sectors and provide confidence for those submitting such proposals.
- To provide practical guidelines on how to submit film, radio, television, podcast, digital programme proposals (including for interactive and on-line content) to film, broadcasting and production companies.
- To set out the obligations of those submitting and receiving film, radio, podcast, television and digital programme proposals.
- To explain what to do when a dispute arises.

What is covered by the Code?

- Any film, radio, podcast, television and/or digital programme proposal which may include formats, treatments, scripts, outlines, development documents, tender submissions, storylines, artwork and synopses which is sent to a broadcaster, film or production company with the purpose of seeking to have the proposal developed and/or made into a film or programme.

- The proposal must be in permanent form whether electronic or hard copy. The Code does not apply to ideas or submissions offered in any other form e.g. verbally.
- Any proposal must be a substantially original work owned and/or controlled by the person submitting it. The proposal must not amount to a copyright infringement of another's work or be sent in breach of any confidence.

To whom does the Code apply?

- Those participating organisations which receive film, radio, podcast digital and television proposals in the UK including the principal UK broadcasters, Pact members and other film, radio, podcast, digital and television production companies which have adopted or acknowledge the principles and best practice contained in the Code.
- Any individual or company that creates or originates film, radio, podcast, digital and television programme proposals and who wishes to offer such proposals to a broadcaster or film, radio, podcast, digital and television production company. The Code extends beyond professional persons or companies and applies to anyone submitting proposals in order to establish a fair and consistent approach and best practice throughout the industry.

The Code

Objectives

The principal objectives of the Code are as follows:

- 1) ensure that film, radio, podcast, digital and television programme proposals are treated in a fair and transparent manner; and
- 2) minimise the likelihood of disputes arising as to the ownership and development of any film, radio, podcast, digital and television programme proposal.

Obligations of those submitting proposals

- 2.1** Those submitting a proposal should follow any published submission procedures of the relevant recipient(s), or in the absence of any published procedures, should submit their proposal in writing in a permanent or electronic form with any original features clearly identified.
- 2.2** Wherever possible, those submitting a proposal should also undertake the following:
 - 2.2.1 Provide as much detail as possible of each proposal to assist those receiving it to review the proposal as objectively and fairly as possible.
 - 2.2.2 State in writing that the proposal is being submitted in confidence.

- 2.2.3 Retain an exact copy of the proposal together with the date submitted, the name and any other relevant details of the person to whom the proposal was submitted.

- 2.3** In addition to the obligations set out above, it would be desirable for the party submitting a proposal to state in writing whether it has been sent to any other broadcaster or film, radio, podcast, digital production company.

- 2.4** It is recognised that similar and on occasion, identical proposals will be submitted by different individuals or companies and sometimes simultaneously. As far as practicable, proposals should be submitted with as much detail as possible in each case so that it can be differentiated from any other proposals submitted, appropriately assessed and treated fairly.

Obligations of those receiving proposals

- 3.1** Those who adopt the Code and receive proposals will undertake the following:
- 3.1.1** Adopt and maintain internal procedures that ensure as far as reasonably possible appropriate confidentiality for the proposal submitted. It is recognised that proposals may need to be copied and circulated by an organisation to those responsible for approving or commissioning proposals. Such dissemination in confidence is acceptable unless any specific restriction on who can review the proposal is imposed by the person submitting the proposal and this is subject to agreement by the receiving party. The proposal may not be passed or copied to other persons other than for the consideration of that proposal.
- 3.1.2** Adopt and maintain internal procedures for receipt of proposals to ensure that such proposals are logged and/or otherwise recorded which are reasonable and practical given the nature of the proposal and organisation receiving it). The logging should include reference to the title of the proposal, date of receipt, the sender's details and, where appropriate, a short description of the proposal.
- 3.2** A response to the proposal whether by way of rejection or to indicate interest should be provided ideally in writing (although by email is acceptable) within a reasonable time following receipt and in accordance with any published timetable issued from time to time by individual broadcasters, film, radio, podcast, digital and television production companies. Where a proposal is submitted in response to a particular invitation to tender, any decision in relation to that proposal will be undertaken fairly in accordance with any published tender criteria and any response will be provided pursuant to the published timetable (if there is one).
- 3.3** Where a proposal is rejected, the recipient will upon request use reasonable endeavours to return any original or other non-digital

material submitted for consideration. The costs of returning a proposal may have to be met by those seeking its return.

- 3.4** Where it is stated on a website, or made available/notified, by any other clear and accessible means that a party does not accept unsolicited material, information and/or proposals submitted on this basis will not be used or accepted, the obligations set out at clause 3.1 to 3.3 will not apply and any material destroyed in line with the organisation's policy or processes. In the event a proposal is accepted, the Code applies.

In-house proposals

- 4.1** Where a film, radio, podcast, digital or television production company or broadcaster originates its own proposals, it must ensure that internal procedures are established which distinguish between proposals submitted from an internal or external source.
- 4.2** On receipt of a proposal, reasonable procedures should be in place to safeguard confidentiality and protect the proposal from dissemination to third parties to avoid a conflict of interest and differentiate between connected parties in case there are identical or similar proposals.

Development of a proposal

Where a proposal is the subject of further development or is commissioned to be made into a film or programme, specific contractual and commercial terms will be agreed between the parties which should deal, amongst other matters, with the ownership of any intellectual property in the proposal and the subsequent film or programme. Once a contractual relationship has been established, the Code will be superseded by the relevant contract terms.

Dispute procedures

- 6.1** A key objective of the Code is to minimise the likelihood of disputes concerning the ownership and development of any film, radio, podcast, digital or programme proposal.
- 6.2** Each participating organisation will have (as part of its dispute procedure), a mechanism to appoint a senior person within their organisation to review any complaints concerning the submission of a proposal that cannot be resolved.
- 6.3** If anyone submitting a proposal has a complaint concerning the unauthorised use, development of any proposal or any substantial part or element of that proposal, it should be raised with the recipient of the proposal. The complaint should be set out in writing with any supporting evidence including:
- The date the proposal was submitted.
 - To whom it was submitted.
 - Any correspondence between the parties.
 - The grounds of the complaint.
- 6.4** The parties should use reasonable endeavours to resolve the complaint without further referral.
- 6.5** In the event that a resolution cannot be reached, the person submitting the proposal (either directly or through their representative association or trade union) should contact the person nominated by the recipient of the proposal to review the complaint (see clause 6.2). The nominated person will undertake a fair review of the complaint and any supporting evidence and provide a written response to the complaint.

- 6.6** If an individual is not a member of a representative association, trade union or other organisation, they may contact the Chair of the APC to receive advice on the relevant dispute resolution procedures of the recipient organisation. The Chair of the APC can be contacted via ChairofAPC@gmail.com.
- 6.7** This procedure encourages all complainants to seek to resolve any complaint or dispute as above. However, nothing contained in the Code shall affect or restrict the legal rights of the parties.

Review

- 7.1** Representatives of the participating organisations shall meet periodically to review and assess the practical implementation of the Code and consider any amendments to the Code.

*With thanks to all the contributing organisations which have supported the principles of the **APC Code of Practice** and the individuals who have given their personal time, thought and expertise to make the publication possible*

MM Musicians'
Union

S4C

audiouk
the audio producers association

B B C

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