SELF-REGULATION CODE IN RELATION TO THE REPRESENTATION OF JUDICIAL PROCEEDINGS IN RADIO AND TELEVISION PROGRAMMES

Public and private, national and local radio and television stations and the suppliers of radio and television contents signatories or members of signatory associations, the national Order of journalists, the national Federation of Italian press, henceforth indicated as parties

SEEN articles 2, 3, 10, 11, 15, 21, 24, 25, 27, 101, 102 and 111 of the Italian Constitution and articles 1, 7, 11, 47, 48 and 49 of the Charter of fundamental rights of the European Union;

SEEN article 3 of the legislative decree 31 July 2005, n. 177 ("Radio and Television Consolidated Act (Testo Unico della Radiotelevisione)", on the fundamental principles of the radio and television system as the guarantee of freedom and pluralism of the means of communication, the protection of freedom of expression of every individual, including the freedom to opinions and the one to receive or to communicate information or ideas without frontiers, the objectivity, the completeness, the loyalty and the impartiality of information, the opening to different opinions and political, social, cultural and religious tendencies and the safeguard of ethnic and cultural diversities, respecting the freedom and the fundamental rights of the person, in particular the dignity of the person and the harmonious physical, psychic and moral development of the minor, guaranteed by the Constitution, by the community rights, by international norms and by state and regional laws,

CONSIDERED that according to article n. 2 of the law of 3rd February 1963, n. 69, that sets the Order of journalists “Freedom of information and of criticism is an inalienable right of journalists, limited only by the observance of the laws on the protection of other people and it is their unbreakable right to respect the essential truth of facts, always observing the duties imposed by loyalty and good faith”,

CONSIDERED that according to article 471, comma 1, of the penal code “the trial is public otherwise it is null”, and that article 147 of the legislative decree of the 28th July 1989 n. 271, while allowing the resumption and the broadcast of the trial debates, it makes them explicative and accentuated naturally to public knowledge;

SEEN the Recommendation approved by the Committee of the Council of Ministers of Europe on
the 10th July 2003 (R(2003)13) relative to the information supplied by the media with regards to penal proceedings, which, reminding the fundamental principles on the subject of the right to free manifestation of thoughts, the right to rectify or to reply, the right to an honest trial, the protection of the dignity of the individual and of private and family life, lists the principles that inspire the journalistic activity in relation to penal proceedings and invites the member States to promote, also through the organs of self-discipline, the respect by the media of the above mentioned principles; as well as the protocol n.11 of the European Convention of the Rights of Man and of fundamental Freedom;

SEEN the Paper of Duties of Journalists undersigned by CNOG and FNSI on the 8th July 1993, the Paper of Treviso of the 5th October 1990, the Vademecum Paper of Treviso of the 25th November 1995, the Paper of the information and programming as a guarantee for the operators of the Public Television Service, the deontological Code relative to the treatment of personal data in the exercise of journalistic activities, the Code of self-regulation of Tv and minors approved on the 29th January 2002 and the Ethical Code approved by the Board of Directors of Rai;

SEEN the “Act addressing the correct ways of representing judicial proceedings in radio and television programmes” approved by the Authority for the guarantee of communications with the deliberation n. 13/08/CSP, which, declining the principles and the criteria relative to programmes whose object is the representation of events and facts that are part of judicial proceedings in progress, invites the interested parties to draw up a code of self-regulation in order to single out rules of self-discipline suitable to give a solid accomplishment to the above mentioned principles and criteria;

CONSIDERED that the constitutional principle according to which justice is administered in the name of the people holder of sovereignty, that can also directly take part, requires that the community be informed in the widest way possible of the facts relative to judicial events as well as the progress of the same and of the ways in which in relation to them justice be really administered in its name;

CONSIDERED moreover that the need for information is absolved primarily by means of mass communication that, following norm of article 21 of the Constitution as interpreted by constitutional and ordinary law, concur in supplying to public opinion a complete, objective, impartial and pluralistic information;

GIVEN that the professional activity of journalists and in general of operators of information, as it involves the need to gather and evaluate facts and evidence, examine its reliability, organise them according to logic and adopting them or refusing them as elements of conviction for the expression of one’s opinion in a form that is assimilable for judgement, which, however, is carried out following
strict procedural rules and has evaluation parameters already fixed in precise norms, that are, however, susceptible to interpretation in the same way as the facts to which they must be applied, leaving, hence, inevitable debatable margins that include a relation that is only presumptive of correspondence between what is judged and the truth of the facts themselves.

GIVEN, furthermore, that the information activity in the form of news and judicial criticism about facts that are object of judicial inquiries is carried out inevitably on parallel lines with it, only thus being able to ensure the reaching of its aim, which is to inform the community through the formation of public opinion on the events and persons towards whom, in its name, justice is administered;

CONSIDERED that this parallel progress determines the conditions of a virtuous circle being able, in particular, to give impulse to trial initiatives of the defence and of the same judging organs in the prospective of an expansion of space as a guarantee for people investigated and for the accused, of the completeness of the inquiries and of the maturation of the free conviction of the judges;

CONSIDERED that the essential function of information accompanies but does not substitute the judicial function, respecting the need to avoid the celebration in a wrong place, in a free form and with anticipatory aims with regards to the trials in progress;

CONSIDERED the constitutional need to preserve freedom of manifestation of the thoughts of operators of information and of the means of mass communication from any form of pressure or censorship, even as a guarantee of the rights of associated firms to receive complete, true and pluralistic information;

CONSIDERED as well the unbreakable duty to respect, in the exercise of this freedom, the inviolable rights of dignity, honourableness and privacy, specifically protected by the presumption of innocence ratified by article 27 of the Constitution, of people especially if they are weak because they are minors or for other reasons, and are taking part in judicial events in any form or that, although outside these events, they can find themselves in occasional relationship of connection; the duty to evaluate, with regards to collectability of its correct accomplishment, in connection with public interest to know immediately the facts of great social importance such as the perpetration of serious crimes;

TAKEN NOTE that the peculiarity of the radio and television means, aimed at narrating through the use of moving pictures, implies the expressive way of scenic representation – that is anyhow common to “liturgical” aspects of the celebration of a trial – which, if it is not kept within reasonable limits of proportion, can transcend into expressive forms that are susceptible of altering the real figure of the person investigated or the accused and of other people in the trial or outside of it;
SHARING the need signalled in the deliberation by the Authority for the guarantee of communications n. 13/08/CSP to discipline the ways of television representations of judicial events in progress, through the choice of self-regulation by the people who have the constitutional right to freely manifest their thoughts with any means of diffusion, also as a guarantee of the formation of a free and conscious public opinion as the basis of the democratic system;

IN CONNECTION with an independent tradition of self-discipline, inspired on the common comprehension to ensure the greatest degree possible of effectiveness to the above mentioned constitutional values that, starting from the Paper of Treviso and from the Paper of duties of journalists, has matured in time the acquisition and the accomplishment of the criteria of a pondered balance between rights and duties of information, the rights to dignity, to honour, to reputation and to privacy of the human being and the principles of a just trial;

after great confrontation at a “technical round table” set up with the quoted deliberation AGCOM and received by the Authority for the guarantee of communications, the attestation that the paper elaborated answers fully and satisfactorily to the indications formulated by it, which therefore remain accomplished

ADOPT

the present Code for self-regulation hereafter called “Code in relation to the representation of judicial events in radio and television programmes”.

Article 1

1. The parties, holding good the safeguard of freedom and pluralism of means of communication themselves as a guarantee for the citizens to be timely and fully informed, and holding good also the protection of individual freedom to manifest one’s thoughts, that implies to look for, acquire, receive, communicate, and spread information and is expressed mainly in the forms of news, of opinion, and criticism also with reference to the organisation, to the functioning and to the acts of public powers included the judicial Order, are committed to adopt in television programmes whose subject is the representation of judicial events in progress those measures suitable to ensure the compliance of the principles of objectivity, completeness, and impartiality, in relation to the facts and the acts that result from the state of the proceeding in that moment in which the programme takes place, and to respect the rights to dignity, to honour, and to reputation and to privacy constitutionally guaranteed to people directly, indirectly, or occasionally involved in inquiries and in the trial.

2. In conclusion to comma 1, in the television programmes whose aim is to represent judicial events, the parties are committed to:

   a) ensure that the differences between documentation and representation are clear, between news and comment, between person investigated accused and convicted, between public prosecutor and judge, between prosecution and defence, between non-defined and defined character of the measures and of the decisions in the evolution of the phases and of the degree of proceedings and judgements;

   b) spread information that, maintaining the innocence of the person investigated and
accused, in any case satisfies the public interest to the immediate knowledge of facts of great social importance as the perpetration of serious crimes;

c) adopt expressive and technical communicative ways that allow the viewer to comprehend quite well what is happening, through the representation and the illustration of the different position of the parties in question, taking carefully into consideration the effect of television to divulge and explain that, although enlarging the dialectic between the individuals in the trial, can lead to the risk of altering the perception of the facts;

d) respect on the whole principle of contradictory theses, ensuring the presence of equal opportunities in the dialectic confrontation between the individuals that support it – that are anyhow different from the parties in the trial – and respecting the principle of goodwill and self-control in the correct reconstruction of the events;

e) control, in the exercise of the right to give news, the truth of the facts narrated through careful and accurate verification of the sources, warning or in any case making it clear that the people investigated or accused are presumed innocent until the irrevocable sentence of conviction and that therefore the truthfulness of the news concerning investigative or accusatory hypotheses follows the fact that the hypotheses have been made by the competent organs during the investigation and the trial and outside of it as well as the existence of the responsibility of the person investigated or accused;

f) not to reveal sensitive data or data that can harm the privacy, the dignity and the correctness of others, and especially of the victim or of other individuals who are not investigated, because their diffusion is unsuitable in satisfying any specific public interest.

Article 2

1. The inquiry of the violations of the present Code, including the indications formulated with the quoted deliberation of the Authority for the guarantee of communications, to which it fully answers, and the adoption of any eventual corrective measures are reserved to the competence of a proper Committee that the undersigned parties that adhere are committed to constitute by the 30th June 2009.

2. In any case for journalists eventually involved the competence remains reserved to the professional Order.

Article 3
1) The present Code is open to membership by other individuals registered in the ROC at the Authority for the guarantee of communications and to their associations and unions

2) The membership means the full acceptance of the present Code.

Article 4

The present Code enters in force when the Committee mentioned in article 2 is established.

Rome, 21st may 2009

For Rai - Radiotelevisione Italiana Spa

Dott. Paolo Garimberti
President

signature

Prof. Mauro Masi
General Director

For RTI – Reti Televisione Italiane Spa
Dott. Fedele Confalonieri  
President of Mediaset

signature

D.ssa Gina Nieri  
Vice-President R.T.I.

signature

For Telecom Italia Media Spa

Dott. Mauro Nanni  
Managing Director

signature

For the Association Aeranti – Corallo

Avv. Marco Rossignoli  
President and Co-ordinator of Aeranti – Corallo

signature

For the Association FRT – Federazione Radio e Televisioni

Dott. Filippo Rebecchini  
President

signature

For the National Order of Journalists

Dott. Pierluigi Roesler Franz  
National Councillor

signature

For the National Federation of the Press