GUIDELINES FOR PROMOTIONS AND JOINT PROMOTIONS BETWEEN INDEPENDENT PRODUCERS AND THIRD PARTIES IN THE UK

1. Introduction and background

Under the new BBC Code of Practice for dealings with independent production companies published on 6 January 2004 and the associated revised BBC Terms of Trade, independent production companies retain rights that allow them to enter into joint promotional agreements. This document is intended to give guidance to independent producers that will enable them to enter into Joint Promotions that are consistent with their contractual agreements with the BBC, and which allow the BBC to meet its Fair Trading obligations. In particular, the following sections of the BBC Programme Production Agreement may affect Joint Promotions:

a) The Trade Mark Licence that allows the producer, with BBC approval, to use BBC trade marks.
b) The commitment by the producer to abide by the BBC Editorial Guidelines, BBC Fair Trading Guidelines and these Joint Promotion Guidelines in using the programme material, format or characters.
c) The commitment by the producer to use their rights in programmes commissioned by the BBC in a way that is ‘consistent with the editorial values and integrity of the programme and the standards and ethos of the BBC’.

These guidelines give advice on Joint Promotions that the BBC is likely to consider to be consistent with these sections of the Programme Production Agreement, as well as giving examples of Joint Promotions that are likely to be considered inconsistent with them. They apply across all manner and means of exploitation, including online and new media.

They also give advice on specific requirements for ensuring that partners, content and advertising in Joint Promotions are suitable. Finally, they outline the process for getting the BBC’s approval for Joint Promotions.

1.1 What are Joint Promotions?

Joint Promotions are marketing tools designed to promote two or more products simultaneously, usually by associating compatible brands or products. Often these brands or products will belong to separate companies. These guidelines consider Joint Promotions that involve the use of programmes commissioned by the BBC or the brands, materials, characters and formats associated with those programmes.

Examples of Joint Promotions include (but are not limited to):

- giveaways, when the consumer is given a free copy of a promotional product when they purchase the third-party item, eg cover mounts on magazines
- special offers for a promotional product (such as a discount voucher) when a consumer purchases a third-party item
- competitions to win a promotional product – (eg a video/DVD)
- token redemption, where the consumer collects a series of tokens and then exchanges them for a promotional product
- newspaper and magazine serialisations of a promotional product or book related to the programme

A promotional product may be an existing product, eg a DVD of a programme broadcast on the BBC, or a novelty item produced especially for the Joint Promotion, eg a figurine of a programme character.

**1.2 Context: how do the BBC's Fair Trading and Editorial Guidelines affect Joint Promotions?**

The BBC Fair Trading and Editorial Guidelines protect the BBC’s core values of quality, integrity, decency and distinctiveness, as well as its editorial impartiality.

Joint Promotions take the risk that the BBC may be seen to endorse third parties. The perception of endorsement could exist regardless of rights ownership or specific BBC branding – the audience will make a link between the programme featured in the Joint Promotion and the BBC. Joint Promotions must be clearly seen to reflect the BBC’s editorial purpose and core brand values and must avoid endorsing, or giving the impression of endorsing, any third party.

The following extracts highlight the way in which the Fair Trading and Editorial Guidelines affect Joint Promotions:

**a) The Fair Trading Guidelines**

Joint Promotions with other commercial companies must avoid the appearance of endorsement of the third party, or their product or service, and protect the brand as it is essential that brands associated with the BBC support and do not diminish the respect in which the BBC is held.

In this context 'the brand' refers to anything that could suggest that a product or service has originated from, or is associated with, the BBC. It might include network or programme logos or names, character names or sound and visual images such as theme tunes. In the context of Joint Promotions, the ownership of the brands is irrelevant – the key issue is the perception of the audience that the programme is associated with the BBC, even if the rights in question are owned and controlled by an independent.

The Fair Trading Guidelines set out that brands should not be used to:

- endorse or promote any particular outside organisation or its activities
- give rise to an appreciable risk that editorial decisions may be thought to be influenced by commercial considerations; nor
- imply that UK consumers need to buy commercial products and services in order to gain access to public service programming
b) The Editorial Guidelines

The Editorial Guidelines state “We should ensure that the BBC brand is not used to endorse outside companies or organisations. We can achieve this by ensuring that:

- commercial advertising or promotion by an outside company does not give the impression of BBC endorsement
- advertising does not “pass off” BBC programmes

We will not normally allow the BBC name, logos, titles, channel names, programme titles, formats or characters to be used by commercial advertisers.” (Section 13, Advertising & the BBC brand)

This guidance is intended to set out areas where exceptions may be granted and how to gain the BBC’s approval for these exceptions.

The full text of the guidelines can be found online at:

Editorial Guidelines: bbc.co.uk/guidelines/editorialguidelines/

Fair Trading Guidelines: bbc.co.uk/info/policies/commercial_guides/

2. Suitable partners for Joint Promotions

2.1. Suitable partners

The BBC’s reputation is probably its most valued asset. It is therefore critical that Joint Promotions do not allow outside interests and commercial companies to undermine the BBC’s values of impartiality and integrity. Due consideration needs to be given to the type of partner/s involved in the Joint Promotion. There are particular sensitivities about:

- certain industry types, for example, tobacco companies
- current public perceptions, for example, areas of current public policy controversy, where there is a danger that the BBC could be brought into disrepute
- company ethical practices, for example, commitment to equal opportunities, use of child labour etc
- the choice of company or organisation or related product should not bring into question the editorial integrity of the programme connected to the Joint Promotion, for example, Ford working on a Joint Promotion on a Top gear product or promotion

As a guide, in the majority of cases, the following will not be suitable partners for a Joint Promotion:

- religious bodies, political organisations/pressure groups or lobby groups
- tobacco manufacturers or companies who are primarily known as tobacco manufacturers, but also produce other goods
- suppliers of pornography; marriage, escort or introduction agencies, or ‘top shelf’ publications
• gun clubs or manufacturers or retailers of guns or armaments
• organisations concerned with gambling, betting or giving betting tips
• organisations involved with promotion of the occult
• family planning agencies or products
• pharmaceutical products

Careful consideration also needs to be given to the following:

• charities – the BBC does not normally support charities other than its own – Children in Need and Red Nose Day (Comic Relief, Sport Relief). Any exception to these needs to be agreed by the BBC’s Appeals Advisory Committee
• alcohol – promotions with alcohol brands or manufacturers will not be suitable for brands associated with the BBC that are aimed at, or likely to appeal to minors. Care must also be taken that the promotion does not bring the BBC into disrepute by encouraging, either directly or indirectly, irresponsible use of alcohol

If you need further guidance on these issues or want to find out more about an association with a particular company please contact Margaret Hill or Natalie Christian in BBC Editorial Policy.

2.2. Exclusive arrangements with Joint Promotion partners

A Joint Promotion that lasts for a sustained time period with the same third party partner may well imply BBC endorsement of that partner. Similarly several successive Joint Promotions with one partner may also give the impression of BBC endorsement. Given this, the Joint Promotions should meet the following criteria:

• the length of the promotion should be no longer than three months (although fulfilment of the promotion may extend beyond this period)
• you need to ensure that you have used fair, objective, written selection criteria in choosing that particular partner
• if there is more than one promotion with the same partner within a relatively short space of time eg six months, the BBC needs to be confident that other partners have been sought. It is important that the brand – and therefore the BBC in the audience’s eyes – is not perceived to be associated with a number of successive high profile promotions with the same third party

Requests for the promotion to run for longer than three months are considered in exceptional circumstances. Such cases must be approved in advance by BBC Fair Trading.

3. Promotional products in Joint Promotions

3.1 Audio-visual products

Audio-visual promotional products are any promotional products that incorporate content that has been broadcast on the BBC. These include items such as DVDs, videos, audio books, computer games and CD-ROMs.
In general, Joint Promotions can offer audio-visual promotional products containing BBC programme content on the basis that:

a) if the audio-visual promotional product contains part of a series, the first episode of the series has been broadcast before the customer receives the product
b) the majority of the content of the audio-visual promotional product – a minimum of 75% – has already been released commercially, and is available at retail by the time the customer receives the product
c) any content which has not been released commercially (which should be no more than 25% of the total content) has been broadcast previously by BBC public service channels

### 3.2 Books

**Promoting books before publication**

Content from books containing or associated with a programme broadcast on the BBC can be offered through a Joint Promotion before the book itself is available at retail. However, care should be taken when the book relates directly to a programme that the promotion or promoted book does not reveal a storyline or a crucial plot development before the programme is broadcast.

**Book serialisations**

Newspapers or magazines may serialise books containing or associated with a programme broadcast on the BBC. The use of extracts from the published material may be made exclusive to that publication and may be printed before the book is published. As with other book promotions the serialisation should not reveal a storyline or a crucial plot development before the programme is broadcast – where there is a risk this will occur, please contact the relevant head of department responsible for the output who may consult BBC Editorial Policy.

### 3.3 Merchandise

All merchandise relating to brands associated with the BBC must either be:

- of genuine added value, created explicitly from the intellectual content of the BBC commissioned programme; or
- of a novelty nature, serving to promote the programme itself

It should not bring the BBC and/or associated programmes into disrepute.

In addition to the conditions noted above, non-novelty merchandise aimed at adults may also be acceptable as long as it is relevant to and consistent with the core values of the programme brand, and consistent with the editorial theme of the programme.

If you are in any doubt over the suitability of proposed merchandise please contact BBC Fair Trading for further guidance in advance.
4. Marketing and advertising Joint Promotions

4.1 General

Care needs to be taken to ensure that any advertisements for promotions do not suggest that the BBC has endorsed the advertisement. Consequently, it isn’t appropriate to use material from the programme itself in the advertisement, except as set out below, in paragraph 4.3.

Please be aware that the use of BBC related talent or talent connected to the programme in a Joint Promotion may, on occasions, give rise to a conflict of interest as outlined in Chapter 13 of the BBC Editorial Guidelines. For further advice please refer to Margaret Hill or Natalie Christian in BBC Editorial Policy.

Advertising campaigns by third parties in any medium must not imply BBC endorsement of the third party. It is vital that there should be no imitation, parody, or re-enacting of programmes broadcast on the BBC. BBC presenters should not be used, except in the circumstances described in paragraph 4.3 below.

There are particular concerns about advertising promotions involving children’s brands. See section 6.

4.2 Radio and television advertising

The BBC must approve any television or radio advertising for Joint Promotions. Extreme care should be taken to ensure that there is no impression that the BBC is endorsing a third party and it should be absolutely clear that the advertisement is marketing the promotion and not a BBC programme.

4.3 Use of programme content in broadcast advertising

What programme content can be used and when?

Television and radio advertisements for Joint Promotions may be able to use clips from television and radio programmes broadcast on the BBC with prior approval from BBC Marketing Strategy through your BBC commissioning editor in the following circumstances:

a) Where the advert is for a promotion featuring an audio-visual promotional product based on or associated with a programme broadcast on the BBC. Here, clips from the programme that are included in the product may be used in the advert.

b) If the advertisement is for a promotion featuring an ‘official’ book of a programme (but not a spin-off or ‘unofficial’ book – see below) it may be possible to use short relevant clips from that programme.

Use of stills and specially shot footage in adverts for spin-off and unofficial books

If the book is connected to the programme but is not the official book (for example, if the book is a spin-off from the programme) any ad should not use clips from the programme. It is possible, however, to use stills or specially shot footage. This is to
ensure that there is no perception that the product is directly related to the programme. BBC talent may feature in these stills or specially shot clips with prior approval of the relevant BBC head of department responsible for the output.

4.4 Potential conflicts – programme marketing and trails

If the promotion coincides with the launch of a new programme, particular care should be taken that the promotion does not conflict with other marketing plans for the programme launch. Contact your commissioning editor in advance to ensure that the advertising of a Joint Promotion related to a programme that has not yet been broadcast does not conflict with programme marketing and trailing plans.

4.5 Joint Promotions with retailers and another party

On occasion there may be more than two partners involved in a Joint Promotion, for example, the opportunity to collect tokens from a newspaper that enable the readers to obtain a promotional product from a high street retailer. In this context, advertisements for the promotion may also contain a reference to the retailer – a ‘retailer tag’.

It is important that any use of a retailer tag in the advert is not perceived as BBC endorsement of the retailer.

The following guidelines apply to retailer tags:

- the retailer should be a good fit with BBC core values
- there is no exclusivity (except for the promotion of exclusive packaging deals, where the use of retailer name can clearly be justified objectively)
- there is clear separation between the brand associated with the BBC and the retailers brand
- there is no move to include the retailers name on packaging (unless there is an exclusive packaging deal)

Advertising with retailer tags

Joint Promotions that include retailer tie-ins should only be marketed via printed advertisements. Please obtain prior approval from BBC Marketing Strategy for any proposal to conduct a broadcast advertising campaign featuring a Joint Promotion with a retailer.

4.6 Competitions

When planning a competition to market a Joint Promotion, the following guidance should be followed:

- Winning a competition should not be based solely on chance, but should also involve skill, knowledge, talent, judgment or experience.
- The level of difficulty or skill involved in the competition should be appropriate to the target audience and age group, and to the prize itself. For example, offering a substantial prize, such as a family holiday, should involve a higher degree of skill than a prize where the competition prize is a free DVD for example.
- If the competition revolves around watching a television programme broadcast on the BBC for the answer, it should not be implied that the reason for watching is to win a prize.
- Large cash prizes should normally be avoided. It is preferable to offer prizes that fit with the brand values of the BBC.
- It is not appropriate to run a competition if the main aim is to generate revenue.

Competitions are also subject to legal and regulatory requirements that need to be adhered to.

Approval from Margaret Hill or Natalie Christian in BBC Editorial Policy should be obtained if Joint Promotion partner for a competition needs to be told the content of a programme before it is broadcast.

4.7 The use of email and text messaging (SMS) to market Joint Promotions

Unsolicited mail

‘Spam’ should not be used as a way of marketing promotions. Any databases that are used for marketing Joint Promotions should only contain the names of people who have opted in to receive this type of message. BBC public service databases cannot be used for commercial promotions or messages.

User-to-user messages and messages featuring user input

Care needs to be taken when using user to user and viral marketing techniques. You need to ensure that you retain adequate control over the content of messages – using fixed messages where necessary, to ensure that programme content – for example stills, cannot be manipulated or annotated in a way that would bring the BBC into disrepute. For guidance, please speak to BBC Marketing Strategy or Natalie Christian in BBC Editorial Policy.

4.8 Appropriate wording for the promotion

Wording used in the content or marketing of a Joint Promotion should not imply that the BBC is endorsing a third party.

Implying exclusivity

Wording on the packaging of a promotional product should not imply that the content of the product or the programme it is associated with is exclusive to a particular retailer. Wording should make clear that it is only the offer or compilation that is exclusive. For example, it may be suitable to say “this compilation/offer/promotion is exclusive to Marks & Spencer”, but it would not be suitable to say “exclusive to Mark’s & Spencer”.

Implying collaboration

Joint Promotions should avoid terms that could imply that a third party is a participant in the creation or content of a programme or a programme brand. Phrases such as “in association with”, “teamed up with” and “joined forces with” are unlikely to be
appropriate to describe a Joint Promotion, as they are likely to imply endorsement of the third party by the BBC.

5. **Branding**

5.1 **Use of the BBC logo and name (and other BBC owned brands)**

The only BBC owned branding that may be included in the Joint Promotion is:

- that which already exists on the promotional product, where the promotional product is a pre-existing BBC-approved product.
- that which has been BBC approved to be included on a specially produced novelty promotional product, where the promotional product contains programme content

No other BBC brands (in logo, initial or sound formats) may be used on/in promotional activity around the Joint Promotion. If you have any question contact BBC Marketing Strategy.

5.2 **Use of BBC trade marks/ BBC brands in advertising**

Pack shots of products carrying BBC owned branding (eg the book of the series or video/DVD) may be featured in adverts.

BBC master brand logo or service logos cannot be included in advertisements for Joint Promotions – in sound or in vision.

Please contact your commissioning editor for guidance and approval over any other use of BBC trade marks or other BBC owned brands in advertising.

5.3 **Trade Mark Licence and Joint Promotion contracts**

Any Joint Promotion wishing to use a BBC trade mark should ensure that the appropriate Trade Mark Licences are in place. The procedure for procuring a Trade Mark Licence from the BBC for such use is available via the Starter Pack on the BBC website at http://www.bbc.co.uk/commissioning/tv/production/articles/credits-branding-trademarks#trade-marks.

For all Joint Promotions a contract, including the appropriate Trade Mark Licences, should be entered into with the third party, setting out the terms of the promotion and acknowledging the BBC’s right of approval over elements of the promotion or marketing campaigns, as set out in these guidelines.

6. **Promotions involving children’s brands**

6.1 **Suitable partners for promotions involving children’s brands**

The guidance on suitable partners for Joint Promotions in Section 2 has particular significance for promotions featuring children’s brands.
Promotions of this type require consultation with BBC Marketing Strategy, who may also consult BBC Editorial Policy at the earliest possible stage. It may also be appropriate to consult/inform the Controller Cbeebies/CBBC.

6.2 Advertising Joint Promotions involving children’s brands

Joint Promotions involving brands, programmes, characters and formats specifically intended for and targeted at children should be considered with particular care and sensitivity. **Broadcast advertising for such promotions is particularly sensitive.** Consequently, any radio or television adverts for promotions involving children’s brands or promotions specifically designed to appeal to children should not carry a BBC logo or a BBC credit in sound and vision.

7. **Relevant contacts**

Editorial Policy: Margaret Hill 020 80081808
Natalie Christian 020 80081810

Fair Trading: Debbie Senior 020 8008 1876
Shaun Day 020 8008 1872

Marketing Strategy: Ana Zaragoza 020 8008 2142

(For more detail on Brand Policy please refer to *The Brand and Design Guidelines – Commercial initiatives and their promotion based on BBC branded programmes owned by Independents* – available from your usual BBC business contact).