

6/02/04

## WGBH

### NATIONAL PROGRAMMING

#### GUIDELINES ON JOURNALISTIC STANDARDS AND PRACTICES

1. These guidelines represent a distillation of the most important standards and practices that have helped nonfiction producers in the past. They are not meant to be comprehensive, and so producers are encouraged to seek the advice or guidance of the Executive Producer or management supervisor when in doubt. The guidelines apply to all nonfiction national productions except 'lifestyle' programs that have established their own patterns and practices.
2. WGBH recognizes that many of these guidelines will appear quite familiar, and many are based simply on common sense. Still, we believe it is important to make this document a part of the ongoing relationship with producers. We draw your attention to the requirement that producers always strive to protect the editorial integrity of the program they are making and that they follow the highest ethical conduct in its production. Of course, no set of rules or standards can insure the result by itself. These guidelines are for the most part self-enforcing, but a good faith effort to abide by them is expected and their willful violation could result in termination of your relationship with WGBH.
3. Where the term "producer" is used we mean also to include reporters or other staff persons with day-to-day editorial responsibility for a program or program segment. **The guidelines apply equally to those on staff and to those with whom we contract to make a program.** Where the term "executive producer" is used we mean to include any senior producer or project supervisor. These guidelines may be modified from time to time, and comments are always welcome.

## FAIRNESS

4. All of WGBH's nonfiction national programs rest on the expectation that the producers we hire and contract with are interested in honest inquiry into the matter at hand and will approach the making of programs with an open mind. Since publication of truthful, accurate information is the prime mission of our nonfiction national programs, it should be clear that willful misrepresentation or falsification of program content will be considered unprofessional conduct and will carry the severest consequences.
5. In the pursuit of truthful information, the producer must be sensitive to issues of fairness if the program is to have credibility. Truth is an elusive combination of fact and opinion, of reason and experience. We ask for the viewer's trust. In turn, we promise that the subject matter and the people in the program will be treated fairly.
6. Appearance of intent to be fair is a strength not a weakness. If the intent is seen to be fair, whatever message the program carries is reinforced. When a program seems to the viewer to be unfair, it defeats itself. On a controversial subject, the ideal program is one whose tone is persuasive, not argumentative.
7. Specifically, fairness means that producers:
  - will approach stories with an open and skeptical mind and a determination, through extensive research, to acquaint themselves with a wide range of viewpoints;
  - will try to keep personal bias and opinion from influencing their pursuit of a story;
  - will carefully examine contrary information;
  - will exercise care in checking the accuracy and credibility of all information they receive, especially as it may relate to accusations of wrongdoing;
  - will give individuals or entities who are the subject of attack the opportunity to respond to those attacks;
  - will represent fairly the words and actions of the people portrayed;
  - will inform individuals who are the subject of an investigative interview of the general areas of questioning in advance and, if important for accuracy, will give those individuals an opportunity to check their records;
  - will try to present the significant facts a viewer would need to understand what he or she is seeing, including appropriate information to frame the program; and,

- will always be prepared to assist in correcting errors.

8. When there are conflicting viewpoints or opinions on subjects treated within a journalistic program, fairness does not require that equal time be accorded to conflicting opinions. However, it does require the acknowledgment of, and responsible statement of, those conflicting opinions.

9. In matters of fairness there is one specific requirement: all producers **must** have a fact-checking procedure at the completion of the program in which every line of narration and synch and every picture is checked for the accuracy of any factual assertion. Pay attention to the proper spelling of names and titles, correct dates, accurate translation of foreign language material etc. Be prepared to cite a source or sources for the fact asserted. Please note that assertion of facts by **experts** may be accepted without checking, but producers should review those assertions if any credible question arises about their accuracy. If an expert's assertion calls into question the character or competency of another person or entity or is otherwise possibly defamatory, then the assertion may not be accepted without verification. All factual assertions by **nonexpert** interviewees must be checked.

10. Nothing in the fairness rules should be interpreted to prevent a producer from making a point-of-view or authored program. However, such a program must be identified and labeled as such. Then these programs can be given great latitude as personal and artistic expressions so long as they are not inaccurate or defamatory.

### FUNDING A PROGRAM

11. Best practice dictates that producers should be distanced from potential funders to the greatest extent possible (does not apply to co-producers, see 14 below). The presentation of proposals should be the job of the executive producer and/or the development office and/or senior management. However, input from producers for proposal purposes may be desirable or a producer may be asked to do research and write a development document. Once a project is funded, producers should try and avoid contact with funders except for promotional purposes. Sometimes, however, projects come to WGBH after independent producers have already had discussions with funders. In those cases the producer is obligated to disclose to the Executive Producer the nature of those conversations and to keep the Executive Producer informed of any future ones.

12. The editorial integrity of a program demands that the funder not become a part of the editorial process. If it becomes necessary for a producer to interact with a funder at any point in time, it is appropriate to discuss the importance of the issue, the amount of research done, possible approaches to stories, and a producer's qualifications to make the documentary.

13. It is inappropriate to promise to include or exclude particular information or characters; it is inappropriate to promise to give more or less weight to any particular

aspect of a program; and it is inappropriate to commit to a particular film or program architecture.

14. Remember that this guideline applies to funders and not to co-producers. Co-producers are other entities that may bring money, access to money, editorial input, personnel or other resources to a project. Whatever the co-producer brings, the entity should be compatible with WGBH and have its own independent perspective towards the subject matter of the program. All co-production agreements must be approved by WGBH.

15. If a producer has obtained partial funding for a program, he/she must disclose these sources as soon as possible so that the Executive Producer can determine if any of the sources pose problems under WGBH and PBS funding guidelines.

## RESEARCH AND FILMING

16. As a producer considers various techniques in researching a story, persuading sources to participate, and gathering information, we expect him/her to act in an honorable fashion. (See also 27-29). Although specific examples could not cover all the concerns here, the primary issue is one of personal integrity. A general question a producer might ask him/herself might be: if you had to tell a reporter how you got the story, how would it sound?

### Consult on Conflict of Interest Problems

17. Any producer who has a material interest—financial, family, political or other personal stake—in a subject to be covered in his/her program must make that interest known to the Executive Producer. It is also the producer's responsibility to monitor any interest of those he or she may hire to carry out the project. Also note that if the subject of the program involves WGBH, the producer must disclose any institutional conflict of interest to the audience.

18. Where the matter under examination may place the producer or other members of his or her team in possession of information that could lead to personal gain, especially in the case of “insider” knowledge of a publicly traded company, acting on that knowledge might be considered illegal and must be avoided.

### Do Not Lobby or Endorse Candidates

19. WGBH staff producers engaged in creating content are bound by a rigorous prohibition against certain political activities. The specifics are outlined in the WGBH station ethics policy that is available from the Human Resources Department. Although the station policy cannot apply in all its details to independent producers, the principles underlying that policy will be applied during the period of time the independent is working by contract for WGBH. Those principles are:

20. (1) WGBH programs cannot endorse particular political candidates, parties or ballot issues. Coverage of legislation and elections is perfectly appropriate. Equal time requirements during election cycles may be applicable. (2) When working on any politically controversial programs, the producer should engage in no personal political activities, including donations or signing petitions, which would undermine his/her claim to be a trusted reporter, producer, or editor. Any prior donations must be disclosed to the Executive Producer. The general test here is whether a producer or the Executive Producer would feel uncomfortable if private beliefs or actions were made public in the context of one's work for WGBH. (3) When working on any program for WGBH, producers should not lobby for or against any specific piece of legislation and must never use their relationship with WGBH to promote or oppose specific pieces of legislation.

#### Do Not Accept Gifts

21. As a general rule, the producer should pay his or her own way and be beholden to no one. Producers should avoid honoraria or gifts from groups that have an interest in how the subject of the program is treated. For WGBH staff members, more detailed rules regarding conflicts of interest, gifts and outside work can be found in the WGBH Employee Policies available from the Human Resources Department. However, to reduce production budgets, producers may negotiate deals for free or reduced airline, hotel, car rental and other services in exchange for a 'special thanks' credit. If it would appear that the entity providing the service has an interest in the subject matter of the film, the practice should be avoided.

#### Do Not Plagiarize

22. In the writing of program proposals, outlines and treatments, it is appropriate to rely on what has been published by others as long as proper citation is given. But if, before making the program, a producer anticipates substantial reliance on the work of others, it is customary to offer credit to them or their work. It is also equitable to pay the original author as a consultant to the project or even to buy the rights to the material. Since these matters turn on many variables, a general guideline is not possible except that it is important that producers disclose, as soon as possible, any circumstances they are aware of in which third parties could raise claims of plagiarism. All arrangements with parties who have previously published material relied on or used in the program must be approved or reviewed by the Executive Producer.

#### Obey the Law

23. The obligations of producers are generally not different from those of a citizen when it comes to obeying the law. It is particularly important that the producer not violate the rights of others in the pursuit of a story. Producers, themselves, should never take action that would facilitate or encourage the commission of a crime.

24. Knowledge that a crime may occur which might endanger the person or property of others should be discussed with the Executive Producer, but if there is imminent danger of serious harm, it should be reported promptly to the appropriate public officials.

25. Certain investigative techniques permit knowledge of a crime to be withheld from authorities (e.g. when the producer is investigating the misconduct of a public official who would have knowledge of it if such a report were made). Also there are a few very rare special cases (e.g. the practice of demonstrating lax law enforcement by violating the law) in which such violation of law might be journalistically permissible. The Executive Producer must approve any such case in advance. Any case in which the producer feels he or she may be in violation of law should be brought to the attention of the Executive Producer and the WGBH Legal Department.

#### Consult before Employing Hidden Cameras or Listening Devices

26. Depending on the circumstances, electronic listening and the use of hidden cameras and recording devices are illegal in a number of jurisdictions, and therefore should not be undertaken without the Executive Producer's approval and consultation with the WGBH Legal Department. This guideline does not apply to situations where a telephone conversation is recorded with the consent of both parties (one is sufficient in some jurisdictions) for purposes of accuracy.

#### Avoid Misrepresentation

27. In general, a person whose participation or cooperation in a documentary production is sought should know the identity of the producer and why the producer is seeking the person's involvement.

28. Material gathered under false pretenses may not carry the same implication of consent that otherwise applies to information freely given to a journalist. If a case arises that calls for a producer **to hide** who he/she is, it must be approved by the Executive Producer in advance of shooting unless producing under dangerous conditions does not permit.

29. In some cases it may be necessary for a producer to **withhold** his/her identity. Such cases are still exceptional and should be discussed in advance with the Executive Producer unless producing under dangerous conditions does not permit.

#### Seek Unrestricted Access and Use—Identify All Restrictions or Conditions on Access or Information and Materials

30. It is preferable in public affairs documentary reportage for access to a place or to a subject to be granted without any restriction or condition. Any question may be asked, none are rehearsed or identified beforehand and no limit or condition is placed upon the uses made of the answers or materials given. It is reasonable in exchange for such unrestricted use to explain the purpose of the inquiry and even to the extent known the general context in which the particular interviewee will appear. In special circumstances it may be desirable to provide questions ahead of time. For example, fairness may require that the subject of an investigative interview have the opportunity to check his or her

records. Also it may be desirable and appropriate to prepare the interviewee ahead of time in non public affairs documentaries where the aim is to elicit specific information. In no case, however, should a producer suggest to a participant that he/she would have the right to edit any material obtained by the producer.

31. With historical films it is an accepted practice to give people an opportunity ahead of time to organize their notes and thoughts. It is the producer's responsibility to discern between refreshing memory and recreating the past. Simply put, the basic responsibility is not only to avoid manipulating an interview subject but also to avoid subjects manipulating the filmmaking.

32. In some circumstances it may be necessary to agree to further conditions or restrictions to gain access, although agreement to such conditions should be the rare exception. Before conditions or restrictions on use are made a part of the contract for access, consult with the Executive Producer. In the rare case of a government agency conditioning access by a demand for review for national security purposes (e.g. the release of classified material, protecting the security of troops), the producer must discuss this situation with the Executive Producer to determine WGBH's willingness to comply. In almost all cases, conditions and restrictions should be disclosed in the program.

#### Do Not Pay for Testimony

33. It is WGBH's policy not to pay for interviews on its programs. Not only does it establish a bad precedent, but also the credibility of any interviewee who was paid is rightly called into question.

34. Reimbursement of expenses incurred by interviewees as a result of filming (reasonable hotel bills, travel etc.) is permissible. Producers need not consult for such payments. Payment for materials critical to the broadcast (photos, diaries, letters) may also be made without violating this rule. However, no payment may be made to induce a person to illegally obtain such materials.

35. Payment to interviewees for work lost during filming may be allowed in cases of genuine hardship and, in certain exceptional cases, if approved in advance by the Executive Producer.

36. A consultant/expert may be paid to appear in a program but should normally be identified as a consultant at the time he/she appears in most public affairs programs. In non public affairs programs, whatever other credits a consultant/expert receives, he/she must be identified as a consultant/expert somewhere in the program or in the credits. A consultant/expert must be treated as any other subject in a film (see 47). A consultant/expert must perform other work for the project in addition to his/her appearance.

### Consult before Staging or Re-Creating Events

37. The use of re-creation and dramatized elements in public affairs programs can be effective devices, but there should be recognition of the fact that viewers might be confused by the presentation of something as real that is unreal. Therefore, whenever re-enactments or staging are used, they must be labeled clearly and unmistakably as such or otherwise signaled in a clear way, if there is a significant chance that the viewer will be confused. Public affairs programs in particular need to use these devices with great care.

38. Historical programs and other non public affairs programs may find it necessary to use dramatic re-creations more often than in the case for public affairs. Often actors and sets will be employed. The responsibility here is to create an accurate vision of the past, whether for an entire program or for smaller scenes within a program. Producers must discuss with the Executive Producer the extent and style of recreations, how much information may be conveyed by the dramatization, whether dialogue may be used and what sources it may be drawn from. In instances where dialogue is created, academic experts must be consulted.

## EDITING AND POST PRODUCTION

### Edit to Compress, Not Distort

39. In no area of documentary production (and other edited programs) is there greater reliance on the honesty of the individual producer than in editing.

40. It should be the objective of the editing process to collect and order all significant facts in a manner that fairly portrays the reality. Whether or not this objective has been achieved cannot be known simply from looking at the result. Thus, a producer might ask him/herself, would I be able to defend a particular cut if others had access to the original materials.

### Use Music/Effects with Care

41. The use of music and/or effects is an accepted practice. In public affairs programs, however, music that editorializes or over dramatizes can detract from the film's credibility. Effects and/or music in those programs should not be used if the impression created for the viewer would be distorted or inaccurate.

42. In public affairs programs, music/effects should be appropriate to and in keeping with the narrative line, and while this area is extremely subjective, the producer should guard against the temptation to use music/effects to communicate something that is not supported in the script.

43. In non public affairs programs, music and effects may be used more loosely for dramatic effect and to entertain.

### Consult on Use of Indecent or Objectionable Materials

44. In general, language and materials offensive to general taste or manners (e.g. extreme violence, racial and other group epithets, strong language, nudity and sexually explicit material) should be avoided where inclusion is not necessary to an understanding of the matter at hand.

45. When it is judged that the exclusion of such material would have the effect of significantly distorting an important reality, the Executive Producer must approve its inclusion, and the program must carry appropriate warnings to the viewer. PBS must be notified in a timely fashion if warnings will appear before or during the program.

### Identify Sources

46. One cardinal responsibility of the producer is to present the significant facts. That means clearly identifying those who speak to camera or who are invoked as authority for a statement of fact.

47. Identity in this case must also include relevant information about the character of the source. By extension, any special interest the speaker or interviewer might have that could motivate his or her speaking should be made known in the program. For example, by narration or on screen identification, one should note if the speaker has filed a lawsuit in the matter being discussed or works for an entity that has a political reputation or has written about science or history from a particular point of view.

48. Best practice dictates that there be at least two independent sources on the record (one might be a document) before publishing controversial factual assertions. If that is not possible, publication may still be appropriate if the limitation on the ability to verify beyond the single source is clearly revealed to the viewer. The Executive Producer must approve any such exception.

49. From time to time, particularly in public affairs programs, it may be necessary to conceal or keep confidential a source's name or disguise a source's voice. In such cases the name and background information about the source must be disclosed to the Executive Producer and possibly to WGBH counsel.

### Consider Diversity in Sources

50. Producers are free to exercise their editorial judgment as to which characters are best suited to push forward a story line and which sources are best able to present the information the program seeks to deliver. However, we encourage producers to consider diversity in race, ethnicity and gender as a positive value in choosing whom to present.

### Use Labels, Warnings, and Disclosures

51. Producers are encouraged to suggest the use of labels, warnings and disclosures to insure that viewers understand what he/she is about to watch or is watching. These devices can put the viewer on notice about strong material that they may wish to avoid; the devices can properly set-up the context for a whole program (i.e. a point-of-view film); and they can be useful in presenting critical information a viewer needs to make a judgment about what he/she is seeing. The devices should be explicit enough in the script or on screen or both so that the information can easily be absorbed.

### Attribute All Non-Original Materials When Necessary

52. Normally all materials used within a program, including stock footage, home movies, stills, etc. but not actually produced by the producer of the program do **not** have to be labeled as to source. However, if knowing the source of the material and/or its date would help a viewer better understand the communication, attribution should be made at the time the material is seen.

### Do Not Alter Still Photos

53. Photos used in public affairs programs should not be altered. Altering involves adding, subtracting or rearranging the elements in a photo and should not be done without disclosure to the viewer. Public affairs programs must be especially careful to do nothing that would jeopardize the credibility of the program. Producers should be able to defend their techniques in public.

54. However, some techniques commonly used with stills are not considered alterations. These include: camera moves, cropping, highlighting a portion of a photo, computer layering, etc. (discuss others with the Executive Producer if in doubt). These are considered directing techniques for editorial clarification and emphasis.

55. In non public affairs programs, there may be some exceptions to the “do not alter rule,” but photos must never be altered to present an image that is not supported by the facts, and any alterations should be done only with the approval of the Executive Producer.

### Use Computer Generated Imaging (CGI) with Care

56. The power of the computer to alter and create images offers many opportunities to enhance all forms of communication. In the nonfiction world, however, there is danger that the computer can be used to create images and graphic effects that cross the boundary between creative license and misrepresentation. Misrepresentation can occur when images are presented as “real” when, in fact, they are artificial. If a viewer could reasonably believe the images created by CGI are real, then the technique should be avoided.

57. An exception to the above rule exists in certain historical programs in which CGI may be used to recreate scenes or locations that do not exist today. The Executive Producer must approve the use of such material. Disclosure to the viewer is recommended.

#### Do Not Pre-Screen for Interested Parties

58. The broadcast, or, if approved by WGBH, the prebroadcast release of a program at a film festival or theater, must be its first publication. Pre-screenings for reviewers and the showing of samplers and occasionally the whole program for publicity purposes, if approved by the Executive Producer, are established practices, but those are the only recognized exceptions to a firm rule that prohibits others—and most especially participants and funders—from seeing a program before its first publication.

59. Only members of the production team, the producing organization, PBS, and others who, at the invitation of the Executive Producer or the producer, after consulting with the Executive Producer, can act as independent consultants should be permitted to view rushes, rough cuts, or any segments of the film before completion. This rule does not preclude checking the accuracy of relevant sections in a film by sharing it in print or orally with a participant. If the Executive Producer has agreed to the extremely rare case of a national security review, such review should be disclosed (see 25).

60. There is also a well recognized, but limited exception to this rule against prescreening for certain filmmakers who obtain access to intimate personal portraits. The Executive Producer should approve such exceptions in advance. The fact that participants reviewed the footage may have to be disclosed.

#### Do Not Show Outtakes or Notes to Outside Parties

61. It is vital that outtakes and notes not be shared with outside parties (e.g., police, litigants, their lawyers, interested parties, critics) unless compelled by legal action as determined by WGBH. However, the licensing of outtakes or sharing of research material with other broadcasters and journalists may be called for either by contract or mutual agreement. (See Business Attachment). Whenever the question arises, it should be brought to the Executive Producer's attention.

#### Prepare for Legal Review

62. Producers should anticipate a legal as well as editorial review of their work. For its own purposes, and not to relieve the independent producer of any contractual obligations, the WGBH Legal Department also will review the program at rough-cut. It is especially important that independent producers seek WGBH guidance before deciding not to include or to remove material on legal grounds.

63. Legal review may deal with the issue of "fair use" of copyrighted material. It is worth noting that there can never be a "fair use" issue if the material is obtained directly from the copyright holder as part of an agreement. A producer must obtain material from

a third party and use the material in the appropriate context before he/she begins the process of assessing whether the use is a 'fair' one. Please advise the appropriate legal counsel as early as possible if 'fair use' claims are anticipated.

64. The legal review will also look closely at material with the potential for generating defamation and invasion of privacy claims. Any program intending to publish material accusing others of wrongdoing or improper activities will be held to rigorous scrutiny under these guidelines. Further legal matters may include: releases and rights clearances; FCC rules on indecency; and the special provision governing equal time in elections.

65. Finally all producers should make themselves aware of the statutory prohibitions against payola and plugola. A brief description of those terms is attached to these guidelines. (See WGBH Payola/Plugola Policies Attachment).

#### Help with Corrections and Updating

66. After broadcast, producers are expected to bring to the attention of the Executive Producer immediately any errors that the producer becomes aware of and to help in making any necessary corrections. If the error involves a misstatement calling into question the character or reputation of an individual, company or product, then the producer must consult with the WGBH Legal Department before taking any steps to correct it and before responding to the complainant directly. Producers also may be called upon to provide information for purposes of updating a program that is going to be repeated. If substantial work were necessary to update a program, a producer would receive separate compensation for this task.

#### Help with Web and DVD Production

67. Producers are expected to work with a web producer or others in providing materials and ideas for production of a web site and DVD, if one is being made, to accompany broadcast of the program. Web publication is subject to the guidelines set forth in this document and to a separate set of special guidelines written with the web in mind. Legally speaking, web publication is no different than broadcast. Therefore if extended interviews are published or there is new reporting, it must be subjected to the same rigorous editorial process that applies to broadcast. The same standard applies to the production of a DVD.

## **ATTACHMENT – BUSINESS AND COMMERCIAL GUIDELINES**

68. WGBH has a complex set of business practices that are usually covered in the specifics of contracts with independent producers and by longstanding patterns and practices within the station. Producers should involve the Executive Producer in any issues that cannot be resolved in the normal course of the contracting process or whenever business relationships need to be defined. There are some matters, however, where business practices intersect with editorial concerns, and guidelines (which do not apply to ‘lifestyle’ programs) on certain of those issues are enumerated below:

### **CO-PRODUCERS AND PARTNERS**

69. Producers may bring or be asked to work with a co-producer. Whether a co-producer brings money, access to money, editorial input, personnel, or other resources to a project, final decision-making must rest with the producer and the Executive Producer for the WGBH and public television version of the program. The co-production credit carries with it the implication of an editorial role for the co-producer. This means that the co-producer must share a journalistic sensibility similar to our own and that any funding received by the co-producer is subject to review by WGBH. **Special Note:** It is never appropriate to co-produce with an entity whose ideas and activities are the subject matter of the program unless it is a work-for-hire (see 72).

70. Sometimes the term ‘editorial partner’ is used. The term connotes a significant editorial relationship. All editorial partners should have an independent stance toward the content. Thus, other publishers—broadcasters, print, independent producers, and specialized data providers—are all viable editorial partners. No editorial partner can have editorial control over what WGBH finally publishes.

71. Producers may be asked to work on acquired programs. In these cases, the entity or producer bringing the project to us may have already exercised editorial judgment. Nonetheless it is our responsibility to review the project’s funding, to assess the editorial soundness of the program, to engage in a fact-checking process, and to require changes or to reversion it to the extent necessary to meet our editorial standards.

72. Producers may be asked to work on programs that will be distributed other than by PBS. If this occurs, the Executive Producer will determine the extent to which these guidelines apply. It is assumed that the highest ethical standards and best journalistic practices will be maintained, if the WGBH production brand name is used.

### **COMMERCIAL ISSUES**

73. Product Placement. Audiences must be able to trust the information in our programs, but that trust could be jeopardized by the appearance of commercialism. At one extreme would be a perception that the program was created primarily to sell the funders’ productions and services. Thus, a producer must avoid any arrangement in which an

entity is paying for placement of its product or service in the program. If a producer needs to use products associated with the content of the program in the course of making the program, best practice is to cover the names of those products, but if that is not feasible, then the funders products can be used so long as they are treated no better or worse than other brands. The use of particular products in a program to demonstrate a point is an editorial decision. If products are donated, proper recognition belongs in the credits. Nothing in this rule would prevent the appearance of products in the course of reporting a story about the products themselves, nor would it violate the rule if the product appeared naturally in the course of shooting a location.

74. Licensing Monies. Licensing decisions, unless otherwise stated by contract, are made by WGBH. Licensing monies derived from the program, program content or products derived from the program's content are paid to WGBH for use at its discretion. The development of the program's content should normally precede licensing deals to avoid the appearance that the content was created solely in response to marketing concerns. Licensing deals should associate the brand name only with products and services that enhance the brand name. Products and services that are editorially incompatible with the program's mission should be avoided.

75. Endorsement. Neither the talent nor any member of the production team of a WGBH program are allowed to endorse products or services associated with the content of the program. Similarly, a program's brand name should never be used for endorsement purposes. The obvious exception to this rule is the appearance of a program's brand name on WGBH licensed products; producers and talent are cautioned not to endorse even these unless the licensed product (or service) directly furthers the overall educational mission of the program (i.e., a companion book/recording of the program).

76. Publicity Events. Talent and producers can participate in publicity events that are arranged by a business partner or funder. However, such events should reflect an opportunity to present information about the program's mission, not an opportunity to directly or indirectly endorse products and services. Also, publicity events should not be so numerous or demanding as to interfere with the editorial and production responsibilities of the talent and/or producer.

77. Companion Materials. All companion book deals and licensing arrangements must be dealt with in accordance with the procedures set up by the WGBH Enterprises Board and PBS guidelines.

78. Syndication of Content. Producers should consult with the Executive Producer on the procedures to maintain the right of editorial approval of the syndication of limited amounts of the film for promotional purposes. Producers should also consult on the procedures WGBH has in place to assure that intakes and outtakes made available for sale to third parties do not include highly sensitive material or uniquely created material unless approved by the project or the Vice-President of National Programming. Interview material included in the film and in outtakes should not be sold unless the buyer is required to obtain a new release from the participant. Because of the

longstanding practice of protecting outtakes from subpoena in public affairs programs, outtake interviews in those programs should not be available for sale.

## **ATTACHMENT — WGBH /NONCOMMERCIAL /PAYOLA /PLUGOLA POLICIES**

79. Most of the material produced by WGBH is intended for noncommercial broadcasting. Accordingly, federal statutes and regulations prohibit the inclusion in programming, in return for consideration (monetary or non-monetary), any material that may be promotional.

80. In addition to these prohibitions, federal law prohibits station officials, employees, or any other persons (including production personnel and program licensors or suppliers) from paying or receiving money, services, or other valuable consideration for the broadcast of any matter over the station. This is the offense commonly known as “**payola**.”

81. Violators may be fined up to \$10,000, imprisoned for up to one year, or both. The selection of music and other creative elements—including persons selected to participate, the use of scenic properties, and the inclusion in programs of any identification of commercial products or services and their trade names or slogans—must be dictated only by the requirements of the program itself. Advance disclosure of the payment of consideration for the broadcast of any matter must be made to the WGBH Vice President responsible for that production area. (Remember, however, that rules governing noncommercial broadcasting may prohibit inclusion of these materials even when prior disclosure is made to WGBH.)

82. “**Plugola**” occurs when a station employee broadcasts matter that directly or indirectly promotes goods in which the employee (or her/his immediate family) has a financial interest, without disclosing that financial interest to the station. Any conflict of interest must be reported to the WGBH Vice President responsible for that production area.

83. If you have questions about “payola/plugola” or your responsibilities under these laws, please contact the WGBH Legal Department.