

**AMERICAN PUBLIC TELEVISION**  
**NATIONAL PROGRAM FUNDING GUIDELINES**

This document addresses the process American Public Television (APT) uses for determining the acceptability of proposed program funding arrangements. If the funding arrangement is determined to be acceptable, a separate evaluation of the proposed on-air funding credit will then take place (see *Guidelines for Underwriting Credits*).

Three “tests” are applied to every proposed funding arrangement in order to determine its acceptability:

- Editorial Control Test: Has the underwriter exercised editorial control? Could it?
- Perception Test: Might the public perceive that the underwriter has exercised editorial control?
- Commercialism Test: Might the public conclude the program is on public television principally because it promotes the underwriter’s products, services or other business interests?

The following describes these tests and their application in more detail.

A. Editorial Control Test

*Public television in the United States, composed of free and independent noncommercial broadcasters, is committed to providing programming that is produced in accordance with the very highest ethical, journalistic and professional standards. Therefore, APT will always hold the producer fully accountable for the program and will not allow editorial control to be exercised by anyone else, including program funders.*

Public television is an independent participant in the American system of a free and independent press. So long as public television continues to hold itself out as a major independent broadcast enterprise, it must guard assiduously against abusing the trust placed in its programming by the public. The audience has a right to feel secure in its assumption that program judgments are being made by professional journalists and by the broadcast licensees who are held accountable as trustees of the public airwaves. To allow program judgments to be controlled by program funders would be to breach the public’s trust. Therefore, APT will not accept a program if the program funder has asserted, or has the right to assert, editorial control over a program.

APT’s consideration of issues of actual editorial control also includes arrangements with third parties regarding control of program copyright, ancillary rights, and/or the provision of in-kind goods or services made prior to APT distribution of the program. To the extent that, through such arrangements, if a third party exercises or attempts to exercise editorial control over a program’s content, the program will not be acceptable for APT distribution.

APT recognizes that the key to the application of this principle is the definition of inappropriate editorial participation or program control by a program funder (or other third party), and that the definition of “inappropriate participation or control” may vary depending upon the general nature of the program or the stage at which the participation occurs.

In general, a program funder's participation in the development of broad program concepts or proposals it might wish to fund is not considered an aspect of editorial control unless the facts and circumstances warrant a different conclusion. Thus, a program would be acceptable if the potential program funder were to make it known that it would be interested in funding, for example, a series on the performing arts or, more narrowly, modern dance.<sup>1</sup>

Though program ideas will, in most cases, be generated by program producers, public television does not prevent funders that have conceived ideas for new programs from acting as a catalyst to see their ideas realized on television. On the other hand, APT will not accept a program where the potential funder has removed control and discretion from the producer by specifying in detail what the resulting program or series should be, or by preordaining the conclusion the viewer should draw from the materials presented. What constitutes such control will depend on the circumstances, although the strictest standard will be applied to current affairs programs.

A program funder's actual participation (or right to participate) in the program production process after the initial idea stages are complete, and after a producer has been engaged will be considered to be the assertion (or the right to assert) of editorial control over the program or program series, and the proposed program funding will be unacceptable for APT distribution. The right to, or the actual assertion of, such control can take many forms. For example:

- The program funder's insistence, by contract or otherwise, on choosing, for example, individual dramas within a drama series, or holding or exercising veto power over a producer's selection of dramas.
- The program funder's insistence, by contract or otherwise, on reviewing scripts, outlines or treatments after the initial funding decision is made — whether or not such review could result in termination of the grant. The same would be true where the funder retains the right to bar delivery of the programs to APT. The ability to withhold or control distribution will be treated in the same manner as the ability to control content.
- The program funder's insistence, by contract or otherwise, on appointing or approving the appointment of experts to an editorial advisory panel when content decisions are expected to be a primary function of that panel.
- The program funder's insistence, by contract or otherwise, on being present in the editing room, or approving or even reviewing rough cuts or fine cuts prior to broadcast. The potential for influence is so palpable in these situations that, even if nothing were changed as a result of such participation, the resulting program in most cases would not be acceptable.
- The program funder's insistence, by contract or otherwise, on owning or controlling the copyright or other program rights to the production it funds. Ownership of copyright establishes actual editorial control in terms of both program content and the right to control program distribution. Therefore, program funders may not hold or control copyright to a program. However, a program funder may participate in the distribution of revenue derived from the exploitation of ancillary rights by the producer, so long as the funder does not hold or exercise such rights itself.
- The deliberate avoidance or alteration of certain material topics within a program or treatment in order that a particular underwriter be deemed acceptable by APT.

- The program funder’s insistence, by contract or otherwise, on participating in or attempting to control the program scheduling process. Funding arrangements which call for such participation would be unacceptable.
- The program funder’s insistence, by contract or otherwise, on a “stepped” or contingent funding arrangement that enables the funder to become involved with program content.

B. Perception Test

*Public Television, composed of free and independent non-commercial broadcasters, provides a program service resulting from good faith professional judgments that are free from inappropriate restraints or controls. This commitment has enabled public television to earn the trust and respect of its viewers. Therefore, APT must guard against the public perception that editorial control might have been exercised by program funders.*

One of public television’s objectives is to be accepted by the public as a free and independent broadcast enterprise, and to sustain that acceptance through the quality and integrity of its programming. Only if so regarded can public television maintain the confidence of its viewers — a confidence that is essential if public television is to accomplish the goal of serving the public with a program service that is enriching and enlightening. Therefore, even if the public television professionals know that programs have not been inappropriately influenced by program funders, and therefore would be acceptable under the editorial control principles set forth above, steps must also be taken to avoid the public perception that program funders have influenced professional judgments. Should a significant number of reasonable viewers conclude that public television has sold its professionalism and independence to its program funders, whether or not their conclusions are justified, then the entire program service of public television will be suspect and the goal of serving the public will be unachievable.

As APT has matured and established a reputation for independence and integrity, it has been able to exercise increased latitude with respect to the perception test. However, there will still be cases where a clear and direct connection between the products, services or other interests of a proposed funder and the subject matter of the program would be likely to lead a significant portion of the public to conclude that the program has been influenced by that funder.<sup>2</sup> There may be occasions when APT will require that opening or closing text indicates that a producer had “total editorial control with no influence from the funder.”

In general, the perception test will be applied most vigorously to current affairs programs and programs that address controversial issues. In these cases, when there exists a clear and direct connection between the interests, products or services of a proposed funder and the subject matter of the program, the proposed funding will be deemed unacceptable regardless of the funder’s actual compliance with the editorial control provisions of this policy.

In some cases, the joining of a problematic funder with one or more neutral funders may make the problematic funder acceptable, as any perception that it may have exercised content control would be mitigated by the presence of the other funders.<sup>3</sup> In such cases, the problematic funder should be a minority rather than a majority funder, and should be credited as such. Caution should be exercised to ensure that the mitigating effect of multiple funding arrangements is not offset by advertising or promotion by the producer or underwriter that would tend to suggest sole or primary funding by the problematic underwriter.

Perhaps the most difficult aspect in administering these guidelines is the question of the possible public perception of editorial involvement and the direct and immediate interests of the funder in the subject matter. Each situation is unique and requires careful, thorough analysis.

The most important factor to be considered is the character and directness of the perceived connection between the program funder and the subject matter of the program. For the purpose of this analysis, the subject of a program will be considered to be those subjects and issues which a program might reasonably be expected to cover — not simply those subjects that are actually covered or proposed to be covered. In assessing the potential impact on the public of a perceived connection, various other factors will be considered as well. For example, the reputation of a continuing program series; the type and number of funders; the actual funding arrangements; the existence, character and role of any independent panel of experts; any on-air disclaimer; whether or not the program was produced before the funding relationship was established; and any other factors that may appear to be relevant to the circumstance.

APT's consideration of issues of perceived editorial control also includes arrangements for ancillary rights made prior to APT distribution. Pre-broadcast sales of ancillary rights to *bona fide* program distributors (or other entities such as publishers) with an established business interest in the exploitation of ancillary rights is not ordinarily a matter for concern. However, ancillary rights arrangements with entities that are not normally in the distribution business can create the perception that the rights purchaser may have an editorial interest in the content of the program, and may therefore have inappropriately influenced the content of that program. The program will not be accepted for distribution if the purchaser of such rights has, or could be perceived to have, a direct or immediate interest in the content of the program that would be unacceptable if the purchaser were seeking to underwrite the program.

Similarly, the perception of inappropriate editorial influence can also be created by the provision of in-kind goods and services to a production by a party that has, or could be perceived to have, the sort of direct or immediate interest in the content of a program that would be unacceptable if the party were seeking to underwrite the program.

Thus, upon offering a program to APT, in addition to providing information about the funders of the program, it is the responsibility of the program producer/presenter to disclose to APT any arrangements for ancillary rights or in-kind goods and services, made either orally or in writing, with any entity that has, or could be perceived to have, any direct or immediate interest in the content of the program. The same disclosure may be required in program credits.

The perception of editorial control can also occur when underwriters seek to fund only selected programs within a series. Therefore, in general, programs within a current affairs or controversial issues series must be treated as a single unit, funding must be sought for the series as a whole rather than for individual episodes, and funders must be credited for the run of the series and must not vary from program to program. This is to avoid situations where an underwriter seeks, or would appear to seek, to fund only that part of a series in which it has a particular interest, or may offer to fund one part of a series in order to ensure production of some other part for which such funding would be unacceptable due to a direct interest of the funder in the subject matter. As a general rule, a funder that would not be acceptable for any single program in a series will not be acceptable to fund any other part of the same series.

There can be exceptions to this rule: For example, an anthology series might incorporate diverse acquisitions, each funded independently of the umbrella anthology and with each crediting its

own set of funders (but with all episodes crediting the funder of the umbrella series). In another case, additional funds may be received after a series begins and the funder may be credited on only the remaining programs in the series. However, APT must approve in advance any such exceptions.<sup>4</sup>

The following examples are offered to further illustrate the application of the perception test:

- A long-standing series of debates, accepted by the public as having an unassailable reputation, could be funded by a corporation that might have a stake in one or more of the individual subjects debated. Here, the credibility of the series has been established and the debate format is less susceptible to manipulation than other formats.
- A series of documentaries, interviews and commentary on the subject of drug abuse may not be accepted if funded by a special purpose nonprofit corporation whose principal mission is to foster the understanding of drug-related community programs, even if the series proposal suggests that it will not deal with the more controversial aspects of drug abuse and its proposed solutions. A reasonable segment of the informed public might readily conclude that the series was funded in order to foster the views and objectives of the program funder.
- Similarly, a program designed to educate the public about the eradication of heart disease or leukemia research may not be accepted if funded by a nonprofit organization whose mission is to raise money to fight these respective illnesses. Again, even though the program may not contain controversial subject matter, and even though there might be few who would criticize the goals of these organizations, a reasonable segment of the public might readily conclude that the program was created solely to promote the interests of the funder.
- A documentary on a prominent Nazi figure may not be accepted if funded by a Jewish social welfare organization. The inherently controversial nature of the program, along with the organization's presumed direct interest and stake in the subject matter, combine to make this underwriting arrangement unacceptable. Again, the public might readily conclude that the program was created to foster the views and objectives of the funder.

In the examples above, an important consideration for APT would be the stage at which the funder became involved.

- Conversely, a major oil company could be the sole funder of a three-part documentary examining the American presidency from early times to the present. Here, the format of the program does not lend itself to any perception of manipulation by the funder because the program has a strong historical focus. Although an oil company does have an interest or stake in administration policy, any reference to or coverage of energy issues would be minor and incidental to an examination of the office of the presidency.

### C. Commercialism Test

*Public Television, composed of free and independent noncommercial broadcasters and licensed as such by the FCC, is expected to be noncommercial by the public and must vigorously protect its noncommercial character.*

One of public television's obligations to the FCC, Congress and the public is to respect and maintain its noncommercial character. Public television's nonprofit, noncommercial status contributes to its journalistic independence. Moreover, because of its noncommercial, nonprofit status, public television receives special treatment from the FCC and various taxing authorities, and receives direct funding from federal, state and local governments. Public television is also eligible for special tariff provisions from common carriers, receiving special rates from unions and performers, and enjoys special privileges for the use of copyrighted materials. Most important, public television, because of the character, quality and integrity of its program service, is reserved in a special place in the public's mind. Therefore, in addition to the editorial principles already set forth, a commercialism test will also be applied to determine whether certain proposed program funding arrangements are acceptable to APT.

In applying this test, APT will carefully analyze the relationship of the funder and its business interests to the subject matter of the program. The interest to be protected here is both the fact and the public perception that public television's selection of programs and the content of those programs is responsive solely to the perceived needs of the public which it serves — not to the commercial interests of corporations or other entities who may fund public television programs. The concern is less that the connection might bring about actual funder control of the program content, although this danger may indeed be present. Instead, the concern is the damage to public television's reputation that could result from a funding arrangement that is so self-serving or self-congratulatory that a reasonable public could conclude that the program is on public television solely or principally because it promotes the funder's products, services or other business interests.

Thus, the policy is intended to prohibit any funding arrangement where the primary emphasis of the program is on products or services that are identical or similar to those of the underwriter. If, however, the product or service depicted is merely incidental or of secondary importance to the program, the funding would be allowed.

The following examples illustrate how the commercialism principle is applied:

- A manufacturer of photography equipment would be permitted to underwrite a general how-to series on photography composition and film developing, but could not fund a program which prominently featured the company's products or which compared products or services similar to those offered by the underwriter.
- A pharmaceutical company could fund a 13-part series examining the working and functions of the human body. The commercial tie between the funder's products and interests and the subject matter of the series is too attenuated to prohibit this funding arrangement, since the series deals with the human anatomy, not health care.
- An oil-producing company could fund a program concerning an art exhibit it has sponsored, provided that the company has not exercised control over the exhibit itself.
- A company could underwrite a program focusing on the life and career of a famous architect who designed the building which houses that company, even though the program might include a brief or coincidental reference to the architect's connection to the funder's building. This situation would not be acceptable, however, if the program focused entirely or primarily on the building in question.

Further to avoid the perception of a funding conflict of interest, program talent is strongly discouraged from serving as a corporate spokesperson for an underwriter associated with their program. In the event such a relationship is pre-existing it will be carefully reviewed in determining the acceptability of the program funder.

Finally, producers are cautioned to scrupulously avoid “product placement” arrangements, *i.e.*, the deliberate or gratuitous appearance in the program of an underwriter’s product or service in a way that draws attention to or features that product or service in any way whatsoever. Producers need not substitute a competitor’s products for those of an underwriter, but must use care to ensure that any appearance of an underwriter’s product is purely incidental and could not be misconstrued as a product placement. Such use of products may be permitted under the following conditions: if labels are not shown and the product has no distinguishing features (*i.e.* other products in the same class have a similar appearance); if the product is used incidentally and appropriately. Verbal brand mentions are not permitted, nor are identifiable close-ups. Patterns are important in this regard. An otherwise acceptable incidental product appearance would be unacceptable if it recurs regularly over the course of a program or series.

**The foregoing funding principles are derived from PBS’ *General Principles for Determining the Acceptability of National Program Funding*. APT’s decision is final and binding, with respect to programs submitted to APT.**

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<sup>1</sup> This assumes that the proposed series has not been created to serve the business or other interests of the funder, which would be unacceptable.

<sup>2</sup> For these purposes, a corporate foundation – that is, one funded with revenues from the corporate parent and answerable in some way to the parent – is considered to have the same business or other interests as the parent corporation. There are some circumstances in which such funding is acceptable – if management of the foundation is separate and distinct from the corporate parent.

<sup>3</sup> It should be noted, however, that some funders will be too problematic under any circumstance to be deemed acceptable – even as one of multiple funders.

<sup>4</sup> When the additional contribution is received after the series begins and is small relative to the entire program budget, a producer may be permitted to credit the new funder on only a fixed block of episodes, even though the series may be repeated at a future date. This may also be permitted where there is little risk that viewers would perceive that unacceptable control had been exercised by the additional funder.