

Ofcom Content Sanctions Committee

Notice of Revocation

In the case of Television Concepts Ltd (TLCS746)

Summary

- (1) Ofcom has decided in accordance with section 238 of the Communications Act 2003 that the licence held by Television Concepts Limited (“Television Concepts”) to provide the service known as Look4Love (TLCS 746) should be revoked with immediate effect for the following reasons:
 - (a) Television Concepts has failed to comply with directions previously imposed on it by Ofcom to remedy its failures; and
 - (b) Ofcom is satisfied that it is necessary in the public interest to do so because:
 - The seriousness of the Code and licence breaches committed by Television Concepts, combined with Television Concepts’ inability to remedy its failures in accordance with directions issued by Ofcom, are such that the continued holding of the licence by Television Concepts is not in the public interest;
 - Ofcom is concerned to ensure that such breaches are not perpetrated in future by Television Concepts or any successor of Television Concepts;
 - Television Concepts has failed to pay the financial penalty imposed on it by Ofcom in the sum of £175,000 (payable to HM Paymaster General) or any part of such sum within the time specified by Ofcom for such payment.
- (2) Look4Love is a channel in the adult section of the Electronic Programme Guide and was transmitted under the title “Babestar.tv Live XXX”. It featured a number of women in various states of undress using sexual actions and extremely explicit sexual language to promote a premium rate chat line. This included apparent masturbation and verbal ‘invitations’ to both anal and oral sex.
- (3) The material Television Concepts was transmitting was considered seriously unacceptable in unencrypted form. In particular, the extreme explicitness of the language transmitted was of an adult sex nature and was wholly unsuitable for transmission on a free-to-air service.

Note: Ofcom’s first adjudication against Television Concepts Limited dated 24 November 2006 followed an oral hearing at which Television Concepts Limited was given a full opportunity to make representations and adduce evidence through itself, on the substantive issues. Following consideration of all the evidence, Ofcom concluded that the breaches committed by Television Concepts Limited justified initiating the process for revocation of its licence under section 238 of the Communications Act (“the Act”). However, in accordance with section 238 (2)(c) of the Act, Television Concepts Limited was first directed to comply with certain specified steps to remedy its breaches. Such directions were given on the basis that if Television Concepts Limited failed to comply with any of those steps within the time specified for that step, Ofcom would proceed to revocation of the licence with immediate effect, if that was considered necessary in the public interest.

Decision

1. On 24 November 2006 Ofcom Content Sanctions Committee gave notice to Television Concepts Limited (“Television Concepts” or “the licensee”) that Ofcom intended to revoke its licence in respect of its service Look4Love (TLCS 746) in accordance with section 238(2)(c) of the Communications Act 2003 (“the Act”). Ofcom was required to specify a period in which Television Concepts should take steps to remedy its contraventions or failure (see Adjudication at http://www.ofcom.org.uk/tv/obb/ocsc_adjud/look4love.pdf). Ofcom also directed the licensee to pay a fine of £175,000 (payable to HM Paymaster General).

2. The Licensee had been found to be in serious breach of seven rules of the BCAP TV Advertising Standards Code (incorporating Rules on the scheduling of television advertisements):

- Rule 4.2.3 Treatments unsuitable for children
- Rule 5.1 Misleading advertising
- Rule 5.4.2 Superimposed text
- Rule 6.1 Harm and offence
- Rule 7.3.1 Mental harm
- Rule 7.3.7 Use of scheduling restrictions
- Rule 11.1.2 Premium rate services

and

- in breach of its Television Licensable Content Service licence, Condition 17.1: Failure to comply with a direction from the Advertising Standards Authority (ASA) that the offending advertising be removed from the service, despite repeated requests and despite that direction being subsequently reinforced by Ofcom.

3. Ofcom’s notice of revocation directed the licensee, with immediate effect, to comply with the relevant standards codes, namely:

- a) the BCAP Television Advertising Standards Code (incorporating the rules on the scheduling of television advertising)
- b) Ofcom's Broadcasting Code

(For specifics see Adjudication at http://www.ofcom.org.uk/tv/obb/ocsc_adjud/look4love.pdf.)

4. Ofcom also gave a direction requiring:

Television Concepts to put into operation and lodge with Ofcom effective written compliance arrangements, within 42 days, to ensure compliance for the service broadcast under TLCS licence no 746 including written confirmation of the compliance structure within Television Concepts with details of who is responsible within the licensee for compliance, the training in place and undertaken by that person or persons and the compliance manuals used for such training purposes.

5. It was Ofcom's intention to monitor within 28 days of the Notice of Revocation whether or not Television Concepts had taken the remedial steps set out in the Notice (as above, see 3 a) and b)). Ofcom also intended to assess whether within 42 days after service of the Notice of Revocation, the steps specified above (see 4) had been taken. This was with a view to revoking Television Concepts’ licence (TLCS 746) with immediate effect if Ofcom was satisfied that, in accordance with section

238(3) of the Act, Television Concepts had not complied with any step within the time specified for that step and that it was necessary in the public interest to revoke the licence.

6. As of 8 January 2007, the licensee has failed to comply with Ofcom's directions to remedy its contraventions or failure. Ofcom has therefore revoked Television Concepts' licence in respect of its service Look4Love. Specifically, Television Concepts has failed to:

- pay the fine of £175,000 imposed on it, or any part of that fine, within the specified time; and
- to put into operation and lodge with Ofcom, within the specified 42 days, effective written compliance arrangements to ensure compliance for the service broadcast under TLCS 746 including written confirmation of the compliance structure within Television Concepts with details of who is responsible within the licensee for compliance, the training in place and undertaken by that person or persons and the compliance manuals used for such training purposes.

7. Ofcom is satisfied that it is necessary in the public interest to revoke Television Concepts' licence due to:

- a) The seriousness of the breaches of the Code and the licence committed by Television Concepts, combined with Television Concepts' inability to remedy its failures in accordance with directions issued by Ofcom;
- b) Ofcom is concerned to ensure that such breaches are not perpetrated in future by Television Concepts or any successor of Television Concepts;
- c) Television Concepts has failed to pay the financial penalty imposed on it by Ofcom in the sum of £175,000 (payable to HMPG) or any part of such sum within the time specified by Ofcom for such payment.

8. It is a necessary, and a licence condition, that directions imposed on licensees by Ofcom (or any body to which Ofcom has contracted out its function e.g. the Advertising Standards Authority) are complied with. Failure to do so is itself a ground for revocation under the licence. Television Concepts has failed on a number of occasions to comply with directions, including those directions imposed on it as a result of the imposition of a statutory sanction (which itself was imposed for the failure to comply with directions).

9. For the reasons set out above, Ofcom is to revoke Television Concepts licence in respect of Look4Love with immediate effect.

8 January 2007