

# OFCOM BROADCAST AND ON DEMAND BULLETIN

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## Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives<sup>1</sup>. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act<sup>2</sup>.

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
  - the prohibition on 'political' advertising;
  - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
  - gambling, dating and 'message board' material where these are broadcast as advertising<sup>3</sup>.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

**It is Ofcom's policy to describe fully television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.**

## Broadcast Standards cases

### In Breach

#### Afternoon with Tom Fisher

***Beyond Radio, 12 February 2018, 15:10***

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#### Introduction

Beyond Radio is a community radio station licensed to provide a service for the residents of Lancaster and Morecambe. The licence for this service is held by Proper Community Media (Lancaster) Limited ("PCML" or "the Licensee").

Ofcom received a complaint about offensive language in the music track *I Can't Quit* by The Vaccines, broadcast at approximately 15:10. This song included the following lyric, "*suckin' it up, fuckin' it up*".

Ofcom considered the material raised issues under Rules 1.14 and 2.3 of the Code:

Rule 1.14: "The most offensive language must not be broadcast... when children are particularly likely to be listening (in the case of radio)".

Rule 2.3: "In applying generally accepted standards broadcasters must ensure the material which may cause offence is justified by the context..."

Ofcom requested comments from the Licensee about how the content complied with these rules.

#### Response

The Licensee said the track was labelled as a "radio edit" by its music supplier and this mistakenly led the Licensee to believe that the track "was radio safe" i.e. a version of the track with any offensive language removed. The Licensee outlined that once they were made aware of this, it was "quickly rectified".

The Licensee acknowledged that the broadcast of the word "fuckin'" at this time represented breaches of Rules 1.14 and 2.3. However, it said it there had been no "intent to cause distress or offence" and that the breaches had occurred purely due to "an oversight caused by the expectation of a particular song's classification" from the music supplier.

The Licensee said that following this incident it has given further training and guidance to the whole station team "in an effort to ensure that further mistakes are mitigated against". The Licensee also set out its role in the community and expressed its commitment to supporting "numerous community groups, the unemployed and disabled volunteers".

## Decision

### Rule 1.14

Reflecting our duties under the Communications Act 2003<sup>1</sup>, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening.

Ofcom research on offensive language<sup>2</sup> indicates that the word “fuck” and other variations of it are considered by audiences to be among the most offensive language.

The Code states that the phrase “when children are particularly likely to be listening” refers to “the school run and breakfast time, but might include other times”. Ofcom’s guidance on offensive language in radio<sup>3</sup> states that:

“broadcasters should have particular regard to broadcasting content at the following times: between 06:00 and 19:00 from Monday to Fridays during school holidays”.

In this case the word “fuckin” was broadcast at 15:10 on a Monday during half term school holidays and therefore at a time when children were particularly likely to be listening. Our Decision is that there was a breach of Rule 1.14 of the Code.

### Rule 2.3

Reflecting our duties under the Communications Act 2003<sup>4</sup>, Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast and the likely size and composition of the potential audience and the likely expectation of the audience.

As stated above, Ofcom’s research on offensive language indicates that the word “fuck” and variations of it are considered by audiences to be among the most offensive language. The

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

<sup>2</sup> Attitudes to potentially offensive language and gestures on TV and radio, September 2016. See page 6 of the Quick Reference Guide:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0023/91625/OfcomQRG-AOC.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0023/91625/OfcomQRG-AOC.pdf)

See also the main report:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/91624/OfcomOffensiveLanguage.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf)

<sup>3</sup> Ofcom Guidance, Offensive language on radio, December 2011

(<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>)

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

use of the word “fuckin’” in this case clearly had the potential to cause offence to the audience.

Ofcom therefore considered whether the content was justified by the context.

Our guidance on offensive language in radio states (regarding Rule 2.3) that: “In reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast”.

In our view, the majority of listeners to a community radio station playing a broad range of music and speech would be unlikely to expect programmes to contain the most offensive language at this time. As a result, we considered the broadcast of this language was not justified by the context.

We took account of the of the circumstances that led to the most offensive language being broadcast in this case and the subsequent actions taken by the Licensee. However, our Decision is that the broadcast was in breach of Rule 2.3 of the Code.

### **Breaches of Rules 1.14 and 2.3**

## In Breach

### Programming

#### *First FM, 5 February 2018, 19:52*

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#### Introduction

First FM is a community radio station broadcasting to the Oxford area. The licence for the service is held by OX4 FM Community Interest Company ("the Licensee").

We received a complaint about offensive language broadcast on First FM at 19:52 in the song *SexyBack* by Justin Timberlake. Its lyrics included the words "*fuckers*" and "*motherfuckers*".

We considered the language raised potential issues under Rule 2.3 of the Code, which states:

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...".

Ofcom requested comments from the Licensee about how the content complied with this rule.

#### Response

The Licensee said that First FM "has a very strict 'no profanity at any time' policy" for its broadcasts "even when such profanity might be justified on the grounds of context". The Licensee considered that this policy "helps prevent any possible ambiguity by presenters or staff regarding what might or might not be acceptable on air".

It said that in the event of offensive language being broadcast its "presenter agreement" states that the presenters:

- "must immediately remove the offending item from air";
- "wherever possible make an immediate on air apology"; and
- must immediately communicate the incident to a "designated board member to be investigated, logged and reported to Ofcom in advance of any listener complaint".

The Licensee explained that although this programme had been produced by Flash FM, an online radio station also based in Oxford, the presenters "had received training and were operating under the terms" of the policies set out above.

The Licensee said that it had undertaken a "thorough investigation" and had spoken to the presenters who explained they had been "experiencing a technical issue and had...rebooted a computer as an attempt to resolve this". As a result, the presenters "were unable to use [the Licensee's] main playout system and switched to using a Flash FM production system for music as a work around" and that this computer "contained music that had not been vetted for broadcast". The Licensee described these actions as "a direct breach of [its] internal policies" which had resulted in the track being played in error.



The Licensee explained that there had been no on air apology or notification to First FM management as “while the track was being broadcast, the presenters were attempting to resolve the original issue and as a result they did not hear the offending lyrics”. It also said that when the presenters had become aware of the issue they “expressed their profound apologies and regret, stating they had absolutely no intention to broadcast any song containing offensive language”.

The Licensee described the assessment it undertook in deciding that Flash FM programming would be suitable for broadcast on First FM. It said that:

- Flash FM had “previously broadcast under an Ofcom FM Restricted Service Licence in the Summer of 2017” and had demonstrated compliance with the Code.
- Flash FM management had “attended the Ofcom...Radio Broadcast Compliance Workshop in Birmingham in January 2018”.
- It had “met, trained and advised [Flash FM] presenters and station management before the broadcast”.

The Licensee said that therefore it “had good reason to believe in advance of this incident that those involved were suitably trained, qualified and responsible”.

The Licensee said that it had “suspended all ‘Flash FM’ programming indefinitely” and understood that the programme presenters had now left Flash FM. The Licensee also told Ofcom that it has “put in place additional processes and policies, including additional checks to ensure no unvetted music source can easily be used for live broadcast, putting additional stress on the importance of [its] internal policies and pre-recording some shows made by less experienced presenters in order to mitigate the risk of any possible recurrence”.

## Decision

Reflecting our duties under the Communications Act 2003<sup>1</sup>, Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast and the likely size and composition of the potential audience and the likely expectation of the audience.

Ofcom's research on offensive language indicates that the words “fuckers” and “motherfuckers” are considered by audiences to be among the most offensive language. The use of these words in this case clearly had the potential to cause offence to the audience.

Ofcom therefore considered whether the content was justified by the context.

Our guidance on offensive language in radio (regarding Rule 2.3) states that: “In reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast”.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

We recognised that this station has a “very strict ‘no profanity at any time policy’”. We therefore considered that listeners to this community radio station playing a broad range of music and speech would not have expected the most offensive language to be broadcast during the early evening. As a result, we considered the broadcast of this language was not justified by the context.

Although we recognised the various actions taken by the Licensee following this incident, our Decision is that this programme was in breach of Rule 2.3 of the Code.

### **Breach of Rule 2.3**

## In Breach

### News

#### ***KL.FM, 14 February 2018, various times***

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#### **Introduction**

KL.FM is a music and information radio station serving the Kings Lynn area. The licence for KL.FM is held by KLFM Ltd ("KLFM" or "the Licensee").

Ofcom received a complaint about the following references to local businesses, which were broadcast alternately during hourly news bulletins between 06:00 and 12:00 on Valentine's Day:

Newsreader: *"...Meanwhile, it's the day full of love for a lot of people. We've been finding out where the most romantic spots are in our area. Our single pringle, Chris, has all the 'love'-ly details".*

News reporter: [Sound bed: 'Je t'aime... moi non plus', performed by Serge Gainsbourg and Jane Birkin] "[In French accent:] No, no...[inaudible], [Without accent:] but, Heacham Manor, Briarfields Hotel and Imagine Spa. Those are just a few of the most romantic places we love about our area that you may or may not have known about. But, we want to hear from you. Where's your favourite place to go with your loved one on this special day? Go to our Facebook page to let us know".

Newsreader: *"And you might be telling someone special why they're so important today, but spare a thought for that other beauty in our lives. It's time to show your love for West Norfolk too. Get on Facebook, Twitter or Instagram, to show everyone why you love being here. These people tell us why it's the only place for them..."*.

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Newsreader *"...In other news, what a lovely day it's going to be for West Norfolk couples. It is of course, Valentine's Day, and Chris is here to tell us some of the most romantic spots in our area".*

News reporter: [Sound bed: 'I'm Gonna Love You Just a Little More Baby', performed by Barry White] *"There are some delightful places in this list, and perfect spots to listen to a bit of Barry in. Brandon Creek's Ship Inn, Heacham Manor and the Bank House – and those are just a few. Where there's a place close to your heart, let us know. We'd love to hear from you on our Facebook page".*

Newsreader: *"And you might be telling someone special why they're so important today, but spare a thought for that other beauty in our lives. It's time to show your love for West Norfolk too. Get on Facebook, Twitter or Instagram, to show everyone why you love being here. These people tell us why it's the only place for them..."*.

The complainant considered the references to businesses were advertising.

Ofcom considered the material raised potential issues under the following Code rule:

Rule 10.3: "No commercial reference, or material that implies a commercial arrangement, is permitted in or around news bulletins or news desk presentations...".

We asked the Licensee for comments on how the programming complied with this rule.

### Response

KLFM confirmed that the broadcast references in *News* to the businesses, Heacham Manor, Briarfields Hotel, Imagine Spa, The Ship Inn and The Bank House were not subject to any commercial arrangement. It said that the news items "were broadcast on Valentine's Day in an attempt to create a creative and entertaining slant on the idea of 'romance'," but "accept[ed] that it was inappropriate to mention specific businesses in the coverage".

The Licensee said it considered KL.FM "a very well-run radio station that takes its obligations seriously and treats the Ofcom Code with the utmost respect", adding that it had received no complaints for many years. It said that its News Editor was relatively new and "keen to bring a new style of creativity to [its] bulletins". KLFM accepted that "on this occasion [the editor] could be said to have over-stepped the line," but emphasised that "this was done out of misplaced enthusiasm...". The Licensee added that the News Editor "[had] received additional training" and "been reminded of the Ofcom Code, most specifically Rule 10.3, [and]...the importance of future compliance".

In response to Ofcom's Preliminary View, KLFM said it "acknowledge[d] that [the content] unintentionally [fell] short of the broadcast standards normally delivered at KLFM" and said that it was providing its News Editor with further training.

KL.FM's News Editor also provided a response to Ofcom's Preliminary View, which reiterated the above and clarified that "the list of activities and places to visit [had been] generated by local research". They said the aim of the broadcast had been "to present a story [in] which we tried to balance impartiality while showing how proud we are to live in West Norfolk and of the people and businesses [there]". The News Editor added that this "was an error of judgement on [their] part and [they had] taken steps to ensure it does not happen again".

KLFM said it was confident of no recurrence.

### Decision

The Communications Act 2003, requires Ofcom to have regard to "...the desirability of maintaining the independence of editorial control over programme content".<sup>1</sup> This is particularly important in the context of news, in which audiences expect broadcasters to maintain the highest standards of editorial independence, free from any suggestion of commercial influence.

Rule 10.3 therefore prohibits any commercial reference, or material that implies a commercial arrangement, in or around news bulletins (subject to specific exceptions). This is

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2003/21/section/319>

to ensure that news bulletins are not distorted, or perceived by listeners to be distorted, for commercial purposes. Ofcom's guidance on Rule 10.3 makes clear that "prohibiting in news any material that *implies* a commercial arrangement is intended to prevent the more general promotion or unjustified prominence of products and services in news".

In this case, throughout the morning, Heacham Manor, Briarfields Hotel, Imagine Spa, The Ship Inn and The Bank House were repeatedly highlighted as being "*most romantic*" in news items that celebrated Valentine's Day and sought listeners to interact with the station via social media. It was Ofcom's view that the repeated reference to these businesses gave them unjustified prominence, especially as alternatives were sought by the news reporter (i.e. "*...we want to hear from you. Where's your favourite place to go with your loved one on this special day? Go to our Facebook page to let us know*"; and "*Where there's a place close to your heart, let us know. We'd love to hear from you on our Facebook page*"), but were not included. In our view, KL.FM listeners were likely to have assumed that the references to specific businesses had been made as a result of commercial arrangements.

Ofcom took into account the action subsequently taken by KLFM to ensure future compliance. Nevertheless, the news items implied commercial arrangements, in breach of Rule 10.3 of the Code.

### **Breaches of Rule 10.3**

## Resolved

### The Wright Stuff

**Channel 5, 15 March 2018, 09:15**

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#### Introduction

*The Wright Stuff* is a weekday morning topical magazine programme broadcast live on Channel 5. The programme is presented by Matthew Wright and includes a panel of guests discussing various news items.

Ofcom received two complaints about a comment made by guest contributor Anne Hegerty during a discussion about the gender pay gap. Anne Hegerty stated that she was *"on record about not being terribly bothered about this"* and went on to set out why this was the case. In response, the following discussion took place at 10:17 between fellow contributor Paris Lees, the journalist and transgender rights activist, and Anne Hegerty:

Paris Lee: *"So you don't think there is an old boys club at the top then?"*

Anne Hegerty: *"No, not really..."*.

Paris Lee: *"I have to disagree"*.

Anne Hegerty: *"Okie dokie, well you used to be a boy so you'd know that"*.

After a brief pause, Anne Hegerty nodded her head and Paris Lees looked at Ms Hegerty and then to presenter Matthew Wright who said:

*"OK, well it's, it's it's an area for...an area for discussion we've looked at it before...erm, at the moment in the middle of the papers, we've got to move it on to the next story...but it's an interesting division as whether there is an active conspiracy to stop women and whether women can be enabled..."*

Matthew Wright continued with the programme asking the guest contributors to highlight other selected news stories. The programme went to an advertising break at 10:24.

Ofcom considered the material raised potential issues under the following rule of the Code:

Rule 2.3: *"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to, ...humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of...gender reassignment..."*

We therefore sought comments from Channel 5 (or "the Licensee") on how the above content complied with this rule.

## Response

Channel 5 accepted that the remark made by Anne Hegerty to Paris Lee “was capable of causing unacceptable harm and offence in contravention of Rule 2.3”. It added that as *The Wright Stuff* is a live broadcast, Ms Hegerty’s remarks were “wholly unexpected”.

The Licensee said that “very shortly after the incident occurred” the programme went to an advertising break and during this time the production team spoke to Paris Lees who “reassured them that she was not offended by the remark and she required no apology”. Simultaneously, the production team notified Channel 5 and the Licensee requested that the well-being of Ms Lees should be checked and that there should be “an apology for the unacceptable on-air remark by Ms Hegerty”. However, the Licensee said that Ms Lees did not want any “fuss or apology” and no on-air apology was made during the live broadcast on 15 March 2018.

When Channel 5 was advised that no on air-apology had been broadcast, it immediately advised the production team that this was “not acceptable”. Channel 5 said that Ms Hegerty’s remark had “the capacity to cause clear harm and offence to the viewing public because it sought to misgender Ms Lees as part of an effort to dismiss her opinion”. Therefore, the Licensee instructed the production team to ensure this “unequivocal apology” was broadcast the next day by guest presenter Anne Diamond:

*“...just a quick word about yesterday's programme. Yesterday, during a discussion on gender pay with Anne Hegerty and Paris Lees, Anne made a remark to Paris about her gender. We apologise to Paris and anyone at home who was offended by what was said”.*

Channel 5 said that since this incident, production staff have been reminded about the “particular sensitivities surrounding the manner in which transgender persons are spoken about”. Further, the presenter has been reminded to intervene in any similar matter “regardless of the view of the person about whom an offensive remark has been made”. The Licensee said that a mandatory policy about intervention in such circumstances had been adopted and would be enforced. Channel 5 said it was confident that if a similar remark were to be made in the future, it would be dealt with “clearly and decisively”.

## Decision

Reflecting our duties under the Communications Act 2003<sup>1</sup>, Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Ofcom has taken account of the audience’s and the broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material which may be considered offensive on one hand and the right to freedom of expression on the other.

In reaching its Decision, Ofcom has also had due regard<sup>2</sup> in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

<sup>2</sup> [Under section 149 of the Equality Act 2010](#)

good relations between those who share a relevant protected characteristic, such as gender reassignment, and those who do not.

Rule 2.3 states that in applying generally accepted standards broadcasters must ensure that potentially offensive material is justified by the context. Context includes, but is not limited to, editorial content of the programme, the time of the broadcast and the likely expectation of the audience.

We considered whether the comment made by Anne Hegerty to Paris Lees was potentially offensive.

In our view, Anne Hegerty deliberately chose to misgender Ms Lees to belittle her and undermine the contribution she had made to the debate. We considered that the likely intention of the comment was to portray a transgender person in a negative and derogatory way.

Ofcom then considered whether the broadcast of these comments was justified by the context.

The comment was broadcast as part of a long-running weekday programme, which features guests discussing topical news of the day. Ofcom acknowledged that viewers would have expected contributors to express personal views on a wide range of current issues and these views were likely, at times, to be conflicting and challenging. However, Ofcom did not consider that this context justified an offensive personal comment being directed at a transgender person. Although brief, we considered the tone of Ms Hegerty's comment was likely to have been interpreted by viewers as intended to belittle Ms Lees and undermine what she was saying, solely on the basis of her gender.

Further, although Channel 5 stated that the advertising break followed "very shortly" after the comment was made, it was at least seven minutes later. In this time, Presenter Matthew Wright invited each of the contributors to discuss four more different news stories and no apology or further reference was made about the comment to viewers.

Given all the above, we therefore considered there was insufficient context to justify the offensive content in this case.

We took into account that this was a live broadcast and that the production team and the presenter could not have anticipated the comment from Anne Hegerty. Also, efforts were made by the production team during the advertising break to check on the wellbeing of Ms Lees and to broadcast an apology when the programme returned, although she requested for this not to be done. We also took into account that despite Ms Lees' request for no apology, Channel 5 acknowledged that the comment had the capacity "to cause clear harm and offence" to viewers and decided to broadcast a full apology on the programme the following day.

We have also considered the steps taken by Channel 5 to ensure any similar remarks are responded to promptly in future with the introduction of a "mandatory policy" which requires the presenter to intervene regardless of the attitude of the affected person.



Given the various steps taken by the Licensee in this case, our Decision is that this matter is resolved.

**Resolved**

## Broadcast Fairness and Privacy Cases

### Upheld

#### Complaint by Miss Mai Manniche, made on her behalf by Ms Vibeke Manniche

#### *Familien fra Bryggen, TV3 Denmark, 7 and 21 September 2017*

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##### Summary

Ofcom has upheld this complaint made by Ms Vibeke Manniche on behalf of Miss Mai Manniche of unjust or unfair treatment in the programmes as broadcast.

The programmes included a discussion about an engagement ring that one of the regular contributors, Mr Cengiz Salvarli, had purchased from the complainant, Miss Manniche, for his fiancée. It included claims that Miss Manniche and her jewellery business, JEWLSCPH, had deceived Mr Salvarli regarding the quality and price of the engagement ring.

Ofcom found that:

- The broadcaster did not take sufficient care to satisfy itself that material facts were not presented, disregarded or omitted in the programmes in a way that was unfair to Miss Manniche.
- Given the seriousness of the allegations made in the programmes, the broadcaster's failure to provide Miss Manniche with an appropriate and timely opportunity to respond resulted in unfairness to her.

##### Programme summary

TV3 Denmark is a Danish language channel broadcast under an Ofcom licence held by Modern Times Group MTG Limited. As the programmes were broadcast in Danish, English translations were obtained by Ofcom and provided to the complainant and the broadcaster for comment. Neither party commented on the translation for the programme broadcast on 7 September 2018. The complainant commented on the translation for the programme broadcast on 21 September 2018. A revised and final version of this translation was then provided to the parties. The parties were informed that Ofcom would use the translations for the purposes of deciding whether or not to entertain the complaint, and for any subsequent investigation.

On 7 and 21 September 2017, TV3 Denmark broadcast *Familien fra Bryggen* (*The Family From Bryggen*), a reality television series following the daily lives of "Linse", a Danish television personality, her daughter Stephanie Christiansen (also referred to as "Geggo" in the programme); Ms Christiansen's fiancé, Cengiz Salvarli, their child, and Linse's friend, "Didde".

##### *7 September 2017*

During this episode, the programme's narrator said:

*"A major problem has occurred in Dragør [an area in Denmark]. Something that Stephanie and Cengiz need clarification of".*

Ms Christiansen and Mr Salvarli were shown talking about their engagement. A 'flashback' of Mr Salvarli proposing on camera to Ms Christiansen was shown, followed by a close-up of him putting a diamond engagement ring on her finger. Ms Christiansen was then shown holding up her hands without the ring on and telling the camera:

*"I haven't been wearing a ring for quite a while now, actually. We're about to run a case against Mai Manniche, who owns JEWLSCPH. Um, so I just have to wait a bit longer".*

Mr Salvarli was shown telling Ms Christiansen that his lawyer had told him to *"write to the Consumer Agency because they had a case with Mai that [his lawyer] won, and it was exactly the same thing"*. He then told the camera:

*"Not long after I'd given it to Stephanie, I received a message on Facebook from a guy who told me he'd bought a similar ring with the same design, and he just wanted to ask where I bought it; because if I bought it there [JEWLSCPH] I ought to have it checked out because he was scammed".*

Ms Christiansen and Mr Salvarli continued talking:

Mr Salvarli: *"I didn't think so, I just thought 'Nah, that can't be right' and that kind of thing, but then it started, then it started – the stone started to corrode.*

Ms Christiansen: *Yes, that's it. You remember how I told you and I didn't like it, because you paid so much money for that ring and I hated having to come and tell you about it. But when I ran my hand through my hair with my ring on, my hair got stuck because – and you took hold of it, remember? and tugged on it, and you could just turn the stone all the way round.*

Mr Salvarli: *Yeah, right.*

Ms Christiansen: *And what's more, it was – it seems so strange that the way they made it smaller, they made it completely crooked. They couldn't make it smaller. There were loads and loads of things. I thought it stank.*

Mr Salvarli: *But they couldn't make it smaller and all that kind of stuff. And really bad work. Yeah, and that was when we got hold of them and said: Well okay, we'll take this and that because they charge 80,000 [approximately £9,400] for it. She [Miss Manniche] says it's worth 200,000 [approximately £23,500] and gave you a good discount, and I have to say: Okay, that's a lot of money. She [not clear who referred to] takes it in and has it assessed by two different people, and one says 28,000 [approximately £3,280]. The other says 30,000 [approximately £3,510]. What the fuck?*

Ms Christiansen: *What? That's insane".*

Mr Salvarli told the camera that the ring had meant so much to Ms Christiansen, but, now she could not wear it, the situation was *"a complete bummer...just crap"*.

Ms Christiansen and Mr Salvarli continued talking:

Mr Salvarli: *"No, that can't be right", she [Miss Manniche] said, and... she didn't feel she'd cheated me at all.*

Ms Christiansen: *Well, you really have to try to work out whether the other person is a good person, and then you have to try to see things from her side as well. After all, she might have been cheated by the people who made the ring. She doesn't make them herself, she buys her diamonds from India.*

Mr Salvarli: *Yes, but it's weird she didn't mention that to me. I think it sounds like somebody is cheating, but she doesn't feel that's the case and it's up to her.*

Ms Christiansen: *No, there are always two sides to a case.*

Mr Salvarli: *Now we just have to deal with it through a few lawyers who are working on it. And they'll have to decide what's to happen".*

Ms Christiansen, speaking to camera, said that what bothered her about the situation was that it was *"such a headache"* for Mr Salvarli, who was then shown telling her that if necessary he would buy her a new ring and *"then get my money later [for the ring from Miss Manniche]"*. He then said to camera *"...this has already taken such a long time, all this, so I just want it over and done with"*.

Neither Miss Manniche, JEWLSCPH, nor the ring were shown or referred to again in the programme.

*21 September 2017*

The programme's narrator introduced the programme and brief scenes from the upcoming programme were shown. These included the following conversation:

Ms Christiansen: *"I don't think it's very nice to see your own name and picture, and specially not Cengiz's everywhere.*

Mr Salvarli: *It's quite possible she [Miss Manniche] doesn't feel she's cheating me, but I feel she's cheating me".*

The following headlines from two unnamed websites were also shown:

- *"Cengiz paid a fortune for engagement ring: Jewellery-Mai has cheated us".*
- *"Cengiz paid a fortune for engagement ring: Jewellery-Mai has cheated us. There's a special reason why Stephanie "Geggo" Christiansen hasn't been wearing her engagement ring for some time".*

Later in the programme another announcement of what was coming up was made, and the above conversation and headlines were repeated.

Following a commercial break, the narrator said *"...the matter of Stephanie's engagement ring is making headlines"* and a number headlines and photographs on unnamed websites were shown:

- *"Mai Manniche: Cengiz is forcing money out of me"* [accompanying this headline was a photograph of Miss Manniche inset against a photograph of Mr Salvarli and Ms Christiansen].
- *"Cengiz paid a fortune for engagement ring: Jewellery-Mai has cheated us"*.
- *"Running a case against jewellery queen: That's why Geggo has taken it off..."* [next to this, the first headline and accompanying photograph above were shown again].
- *"Cengiz paid a fortune for engagement ring: Jewellery-Mai has cheated us. There's a special reason why Stephanie "Geggo" Christiansen hasn't been wearing her engagement ring for some time"*.
- *"Jewellery designer in bitter dispute with Geggo and Cengiz: 'He [Mr Salvarli] was incredibly aggressive and tried to blackmail me [Miss Manniche]'"*.
- *"Cengiz defends himself: Mai Manniche is full of lies"*.

Two other unnamed websites were also shown, on which the text was illegible. One had a photograph of Miss Manniche. The other had a photograph of Ms Christiansen and Mr Salvarli.

Mr Salvarli and Ms Christiansen were shown discussing the amount of contact they had received from *"the press"* about the matter. Mr Salvarli said *"My first reaction was very much on Mai's blog post, i.e. I think it's all a bit childish"*. He added that he was pleased, however, about the attention from the press *"because now it's out there, now I can say, because I'm not hiding anything, the truth is out there...I just want to speak up, I'd like to tell Denmark what's happened"*.

Mr Salvarli continued to talk with Ms Christiansen about making statements to the press, adding:

*"...what matters to me is how things go with the consumer board. What's happening now is this: Vibeke has taken over, Mai's mother has taken the case over. Mai isn't involved in this case anymore at all, Vibeke has taken it all on. She's told the consumer board that she'd like to get the ring in and have it checked to see whether everything is okay"*.

Mr Salvarli then told the camera:

*"I've been in and got this new certificate for the ring I bought from Mai. And I've done that because then I'm safe. So, then it, it's the ring, it has that value. That's the ring I bought, at that value, and paid lots of money for. So, Mai can't replace the ring, give me a new ring that's worth more, because I'm not interested in that. I'm not interested in getting anything from her. I'm interested in getting my money back, because I just want the ring from somewhere else. And she can have her ring back and do whatever she likes with it"*.

Mr Salvarli and Ms Christiansen then talked as follows:

Mr Salvarli: *"She hasn't stamped the ring either. You should do that, according to the law. I've found that out from the people who've assessed it.*

Ms Christiansen: *All it said in it was 18 carats.*

Mr Salvarli: *The ring hasn't been stamped according to the Danish Stamp Act. It should be.*

Ms Christiansen: *It said 'jewels'.*

Mr Salvarli: *And the stone was loose. And then I got this certificate. Up here is the assessment: He's estimated it to be worth 22,200 kroner [approximately £2,600] [Mr Salvarli showed a document to the camera with 22,200 kroner written on it].*

Ms Christiansen: *Oh my God, that's even lower.*

Mr Salvarli: *The other assessments I got were higher than that. This man here, who's genuine, he can make certificates, reckons it's worth 22,200 kroner [about £2,600].*

Ms Christiansen: *No, no, no, no.*

Mr Salvarli: *And I've paid 80,000 kroner. She stands there, and she tells me it's worth 200,000 kroner.*

Ms Christiansen: *And you have a piece of paper that says 200,000 kroner on it.*

Mr Salvarli: *Yes! Exactly!"*

Ms Christiansen then told the camera that she was tired and unhappy with *"the whole thing"* and that it was unpleasant to see the articles in the media *"With allegations from her [Miss Manniche] and others"*. Then she and Mr Salvarli discussed the fact that *"Now... everybody knows that this case is running"*. Mr Salvarli told the camera that the consumer board had told him that *"Mai is entitled, in purely legal terms, to get the ring in in order to check it, to make sure it's unbroken, okay, if it's as it should be, if it's as they handed it over"*. Then he told Ms Christiansen that according to the consumer board Miss Manniche had eight weeks to state her position, adding:

*"So, either she has to say you know what, I can see the problem, they'll get their money back or, we stand by that, that ring is worth 200,000 and then I can take it further. And then the consumer board will get an assessment of it, won't they? So now I just hope she'll come back with something or other. Ideally, I'd like her to give my money back, you know?"*

They continued to talk as follows:

Ms Christiansen: *"I just don't understand, she [Miss Manniche] wanted to do that. She said so.*

Mr Salvarli: *Yes! Yeah, yeah, but she wanted to get the ring first as well. Do you know what I mean? That's what's strange.*

Ms Christiansen: *But it might be good for your case that she actually says initially that I'll take it back. We don't want unhappy customers.*

Mr Salvarli: *Yes, and also because I say no, I don't want to give it back, without money, without ring. And then suddenly –*

Ms Christiansen: *Your lawyer says I'd like to be the middleman so that you can be sure you're not being cheated. No, she suddenly doesn't want to do that. And I just think that seems very mysterious. But right now, there's not much else to do other than just leaving it up to the court. This is a really annoying case, really annoying! And keep your trap shut where the press are interested in it, man!*

Mr Salvarli: *Yes, because it makes good reading.*

Ms Christiansen: *Sure, but phew. All this is really giving me a bad stomach. I don't think this is nice at all".*

Ms Christiansen then said to camera that *"...An engagement is a big thing that most people only get to experience once in life, and the fact that there are such negative connotations... I think that's really, really unfair, and hugely irritating".* Then Mr Salvarli told Ms Christiansen that he did not like to be cheated. Their conversation about the engagement ring ended as follows:

Mr Salvarli: *"I really feel cheated. It's quite possible she [Miss Manniche] doesn't feel she's cheating me, but I feel cheated. And so, I want to take it further.*

Ms Christiansen: *We should have just grabbed it and said we've been cheated, Cengiz. You too, and so have I. But maybe she'll do it. We can still achieve that.*

Mr Salvarli: *Yeah, exactly. She can still achieve that!"*

Neither Miss Manniche, JEWLSCPH, nor the ring were shown or referred to again in the programme.

### **Summary of the complaint and broadcaster's response**

#### The complaint

Ms Manniche complained that Miss Manniche was treated unjustly or unfairly in the programmes as broadcast because:

- a) The programmes made serious and false allegations that Miss Manniche and her business, JEWLSCPH, had deceived Mr Cengiz Salvarli regarding the quality and price of the diamond in an engagement ring. This resulted in the programmes giving the false impression that it was JEWLSCPH's practice to "cheat customers". In particular, the programmes falsely alleged that:

- Ms Manniche had told Mr Salvarli that the diamond ring was worth 200,000 Danish kroner, and had sold it to him for 80,000 Danish kroner; and,
- Mr Salvarli had subsequently found defects in the ring and obtained a certificate which valued it at 22,000 Danish kroner.

Ms Manniche stated that the diamond had an international certificate and that there was no discrepancy between its quality and the information given to Mr Salvarli about its quality prior to purchase.

- b) Miss Manniche was not given an appropriate and timely opportunity to respond to the allegations made about her in the programmes.

#### Broadcaster's response

TV3 Denmark said that season 11 of the series had followed Mr Salvarli as he tried to find an engagement ring, chose one from JEWLSCPH, and proposed to Ms Christiansen. It said that viewers had therefore followed every part of this development in his relationship with Ms Christiansen and that "there was strong editorial justification" to include the reason Ms Christiansen was no longer wearing her engagement ring. In addition, it said that in the complained about programmes, viewers heard about the family's reaction to some of the issues that the couple had had with the engagement ring and the conflict between the couple and Miss Manniche. The broadcaster added that the series followed the daily lives of the couple, in which the conflict had figured strongly, "so it was natural to include it in the programmes".

TV3 Denmark said that in the episode broadcast on 7 September 2017, Mr Salvarli and Ms Christiansen recounted how the conflict had started. It said that following the family in their daily lives included "hearing their opinions and seeing the world from their point of view". As such, the broadcaster said that it was editorially necessary to include the issues they had experienced with the ring and what they felt they had been told regarding the price by JEWLSCPH, as this was relevant to the conflict they were in.

TV3 Denmark said that there was a reference in this episode to a previous similar case brought against JEWLSCPH where the complainant had felt that he had overpaid for a ring from the company. It said that in this case, the Danish Consumer Ombudsman (the "Ombudsman") (referred to above in the "Programme summary" section as "*the Consumer Agency*") found in favour of the complainant and that the decision was published and referenced by the Danish Press Council in its decision not to uphold Miss Manniche's complaint to them about a magazine article on the matter. The broadcaster said that the inclusion of this information did not give the impression that JEWLSCPH had a practice of cheating its customers, only that there had been a previous case of a similar nature that was relevant to the dispute and discussion in the programme.

TV3 Denmark said that the programme only gave an account of the couple's view of the situation and did not give an opinion as to whether this was correct or not. It added that large parts of the conflict happened outside the realms of the series and the information was just "relayed here" as it was editorially necessary to include it.



TV3 Denmark said that as this was a private conflict between the two parties, only they knew the full details, including any agreement of price for the ring. The broadcaster added that Mr Salvarli had acquired three different valuations of the ring, one of which was shown in the episode broadcast on 21 September 2017. It said that it was not in possession of these valuations, but it understood that the last valuation had been included in the case with the Ombudsman.

The broadcaster said that the series was not a consumer advice nor investigative programme and as such, it did not explore all elements of the case and include Miss Manniche's "take" on the case. The broadcaster added that this would have been "entirely alien" to the format and the editorial of the programme. It said that all that was included was that which was relevant for the viewers to understand the family's experience of the case and its impact on their lives.

TV3 Denmark said that when the episode was broadcast on 21 September 2017, the case had been "well documented" in the Danish press and so it decided to include a conversation where the couple gave their reaction to all the attention the conflict had received, but also an update on the current status of the conflict. It added that in this episode Mr Salvarli showed a piece of paper to the camera stating that he had had the ring valued again.

TV3 Denmark said that the episode broadcast on 7 September 2017 did refer to the fact that Miss Manniche disputed Mr Salvarli and Ms Christiansen's version of events and they even implied that Miss Manniche may not be at fault. In particular, it said the programme included the following:

Mr Salvarli: *"No, that can't be right", she [Miss Manniche] said, and... she didn't feel she'd cheated me at all.*

Ms Christiansen: *Well, you really have to try to work out whether the other person is a good person, and then you have to try to see things from her side as well. After all, she might have been cheated by the people who made the ring. She doesn't make them herself, she buys her diamonds from India.*

Mr Salvarli: *Yes, but it's weird she didn't mention that to me. I think it sounds like somebody is cheating, but she doesn't feel that's the case and it's up to her.*

Ms Christiansen: *No, there are always two sides to a case.*

Mr Salvarli: *Now we just have to deal with it through a few lawyers who are working on it. And they'll have to decide what's to happen".*

It also said that the episode broadcast on 21 September 2017 made clear that Miss Manniche did not agree with Mr Salvarli and Ms Christiansen when Mr Salvarli said *"I really feel cheated. It's quite possible she [Miss Manniche] doesn't feel she's cheating me, but I feel cheated. And so, I want to take it further".*

TV3 Denmark said that it had not included the claims to put JEWLSCPH "in disrepute" or to make it seem as if the company had a practise of cheating customers. It said that the conversations were included as there was strong editorial justification for including an issue that featured heavily in the family's life, and "the couple's take on it". It reiterated its

position that the programme itself offered no opinion on this being correct or not. It said that this was, despite the cameras being there for some of it, a private transaction and the programme makers had not been party to all the details, this included the price mentioned by Mr Salvarli and the valuations acquired by him. TV3 Denmark said that as Miss Manniche and JEWLSCPH had previously had a complaint upheld by the Ombudsman for a similar case, and that the Danish Press Council had rejected a complaint along similar lines as the complaint to Ofcom, it did not consider that the programmes had treated Miss Manniche unfairly.

TV3 Denmark also said that because of the nature of the series, Miss Manniche was not invited to make comments on the claims. It said that the fact that she disagreed with the couple was made clear by them in both episodes. It added that by the broadcast of the episode on 21 September 2017, "the whole conflict had been made public in the press with the opinions of both parties being publicised".

### **Ofcom's Preliminary View**

Ofcom prepared a Preliminary View that Miss Manniche's complaint should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Neither party made any relevant representations on the Preliminary View.

### **Decision**

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching this decision, Ofcom carefully considered all the relevant material. This included a recording of the programmes as broadcast, transcripts in English of the programmes and both parties' written submissions and supporting documentation.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In addition to this Rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) We first considered the complaint that the programmes made serious and false allegations that Miss Manniche and her business, JEWLSCPH, had deceived Mr Cengiz Salvarli regarding the quality and price of the diamond in an engagement ring. This

resulted in the programmes giving the false impression that it was JEWLSCPH's practice to "cheat customers".

Practice 7.9 states:

"Before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation".

It is important to emphasise that Ofcom is unable to make findings of fact in relation to the veracity or otherwise of the statements made in the programme about Miss Manniche and JEWLSCPH. Our role is to consider, taking into account Section Seven of the Code, whether by including these comments in the programme, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that was unfair to Miss Manniche.

Ofcom recognises the broadcaster's right to freedom of expression and the public interest in allowing them to broadcast matters of interest in programmes without undue constraints. This includes reality entertainment programmes such as *Familien fra Bryggen*. However, in presenting material in programmes, reasonable care must be taken by broadcasters not to do so in a manner that causes unfairness to individuals or organisations in programmes. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the cases including, for example, the way in which an individual is portrayed, the seriousness of any allegations and the context within which they are made.

Therefore, we began by considering the nature of the allegations and whether they had the potential to materially and adversely affect viewers' opinion of Miss Manniche and JEWLSCPH in a way that was unfair. We then went on to consider whether, if the allegations did have this potential, the manner in which they were presented in the programme resulted in unfairness.

We took into account that in the programme broadcast on 7 September 2017, Mr Salvarli and Ms Christiansen discussed that Miss Manniche had sold Mr Salvarli an engagement ring that they said was of poor quality and had various defects for 80,000 Danish Kroner (approximately £9,400). They also said that Miss Manniche had later stated that it was worth 200,000 Danish Kroner (approximately £23,500), when it was, according to subsequent valuations they had received, only worth between 28,000 and 30,000 Danish Kroner (approximately £3,400). In addition, Mr Salvarli said that his lawyer had brought a similar case, from a customer Mr Salvarli said had been "scammed", about Miss Manniche and JEWLSCPH to the Consumer Agency and had won.

We took into account that in the programme of 21 September 2017, Mr Salvarli said that he felt "cheated", and that Ms Christiansen said that both she and Mr Salvarli had been "cheated" by Miss Manniche. Also, magazine article headlines were shown which reported this allegation and that, according to Mr Salvarli, Miss Manniche was "full of lies". Mr Salvarli also restated the price he had bought the ring for and the value Miss Manniche had allegedly told him it was worth, adding that he had got a certificate from a qualified individual which valued the ring significantly less than Miss Manniche's

valuation. Mr Salvarli also said that the ring had not been stamped in accordance with "the law" and that "*the stone was loose*".

Ofcom considered that viewers would have understood from these comments that in Mr Salvarli and Ms Christiansen's view, Miss Manniche had sold Mr Salvarli a poor-quality engagement ring at an inflated price. Viewers would also have understood that another customer had successfully won a case against Miss Manniche for a similar issue. While we considered that these comments did not amount to an allegation that Miss Manniche had a practice of cheating customers, it was our view, that they did amount to significant allegations that Miss Manniche had in Mr Salvarli's view deceived him about the quality and price of the engagement ring and that it had also happened previously to another customer. We therefore considered that the inclusion of these allegations in the programmes had the clear potential to materially and adversely affect viewers' opinions of Miss Manniche, as a businesswoman and jewellery designer.

We next considered whether the broadcaster had taken reasonable care to ensure that material facts were not presented, disregarded or omitted in a way that was unfair to Miss Manniche.

We acknowledged TV3 Denmark's statement that the programmes did refer to the fact Miss Manniche disputed Mr Salvarli's and Ms Christiansen's version of events. However, the programme of 7 September 2017, included only a brief recognition that Miss Manniche did not consider she had "cheated" Mr Salvarli. It also referenced that Miss Manniche herself may have been "cheated" by her suppliers. In both cases, however, we considered that it would not have been clear to viewers whether the views presented actually reflected Miss Manniche's view or simply represented the couple's assessment of the situation. Therefore, given this and the cumulative effect of Mr Salvarli's and Ms Christiansen's accusatory comments about Miss Manniche, JEWLSPCH and the engagement ring, Ofcom considered that the programme provided insufficient contextual background to enable viewers to understand Miss Manniche's position on the dispute, and in particular, on the allegations made about the price and quality of the engagement ring.

We took into account that Miss Manniche had contacted the programme makers prior to the broadcast of the programme on 21 September 2017 to express her concerns with the comments which had been made about her and to request for an opportunity to respond to the claims. We therefore considered that, at least by the broadcast of the programme on 21 September, the broadcaster was aware that Miss Manniche refuted the allegations and considered it was appropriate for her response to be included in the programme. Despite this, the programme only included a brief recognition that Miss Manniche disagreed with the couple by way of the inclusion of media headlines and the presentation of an alternative viewpoint by the couple. However, the eight media headlines were only shown very briefly and the majority reflected Mr Salvarli's view that Miss Manniche had cheated him and that she was "*full of lies*". Two of the headlines appeared to reflect Miss Manniche's position that she was not the offending party in the dispute, but rather the victim of aggression and blackmail by Mr Salvarli. We also considered, as stated above, that it would not have been clear to viewers whether the views presented by the couple actually reflected Miss Manniche's view or simply represented the couple's assessment of the situation. Therefore, when considering all the comments made by Mr Salvarli and Ms Christiansen in the programme and taking into account the cumulative effect of these comments and the comments made in the

previous programme, again we considered that the programme provided limited contextual background to properly represent Miss Manniche's viewpoint, particularly in relation to the allegations made about the price and quality of the engagement ring, and to avoid unfairness to her.

We also took into account the broadcaster's statement that both programmes simply represented the couple's position and did not provide an opinion on whether it was correct, and the programme only included what was required to understand the dispute. However, we considered that the programmes went beyond simply reporting about the case against Miss Manniche and the programme instead made significant allegations about the price and quality of the engagement ring. Therefore, given the way in which the allegations were presented in the programmes, and in the absence of any reference to Miss Manniche's viewpoint, viewers may have reasonably gained the impression that the statements being made about the price and quality of the ring by the couple, whether Miss Manniche was at fault or not, could be taken as fact.

For all the reasons above Ofcom considered that the comments made in the programmes about Miss Manniche and JEWLSCPH amounted to significant allegations and that the cumulative effect was that they had the clear potential to materially and adversely affect viewers' opinion of Miss Manniche in a way that was unfair. Also, in the particular circumstances of this case, there was insufficient representation of Miss Manniche's position which had the potential to impact negatively on viewers' ability to understand the case and the position of both parties to the dispute, such that they may have perceived Miss Manniche in a way that was unfair. Therefore, on balance, we considered that this resulted in the broadcaster failing to take reasonable steps in accordance with Practice 7.9 to satisfy itself that material facts about Miss Manniche had not been presented, disregarded or omitted in a way that was unfair to her.

- b) We next considered the complaint that Miss Manniche was not given an appropriate and timely opportunity to respond to the allegations made about her in the programmes.

Practice 7.11 states:

"If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond".

For the reasons already given in head a) above, Ofcom considered that the comments made in the programmes about Miss Manniche and JEWLSCPH amounted to significant allegations and that the cumulative effect was that they had the clear potential to materially and adversely affect viewers' opinion of Miss Manniche in a way that was unfair. Normally, where a significant allegation is made about an individual or organisation in a programme, the broadcaster should ensure that the individual or organisation concerned is given an opportunity to respond and, where appropriate, for that response to be represented in the programme in a fair manner.

We took into account that the broadcaster did not appear to offer Miss Manniche an opportunity to respond to the allegations made in the programme broadcast on 7 September 2018. We also took into account that prior to the broadcast of the second programme, Miss Manniche had emailed the broadcaster and had requested an opportunity to respond to the allegations, but that no such opportunity was offered to

her. The broadcaster stated in its response to Ofcom that it did not provide Miss Manniche with an opportunity to respond due to the nature and format of the programmes. However, it was our view that Mr Salvarli and Ms Christiansen presented in the programmes their side of an ongoing consumer dispute, and in so doing made significant allegations about Miss Manniche. Therefore, for the reasons already given in head a) above, we considered the broadcaster should have provided Miss Manniche with an opportunity to respond to the significant allegations made in the programme about her. The broadcaster's failure to do this and to reflect any such response received, resulted in unfairness to Miss Manniche.

**Ofcom has upheld Ms Manniche's complaint on behalf of Miss Manniche of unjust or unfair treatment in the programme as broadcast.**

## Upheld

### **Complaint by Mrs J on behalf of her daughter (a minor) *Eamonn & Ruth's 7 Year Itch, Channel 5, 21 September 2017***

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#### Summary

Ofcom has upheld this complaint of unjust or unfair treatment made by Mrs J on behalf of her daughter (a minor).

The programme, *Eamonn and Ruth's 7 Year Itch*, explored the different ways in which couples maintain their long-term relationships, by participating in various hobbies and pastimes together. One of the hobbies included in the programme was dance, and the presenters (Eamonn Holmes and Ruth Langsford) visited a London ballroom. The programme included footage of Mrs J's daughter, who was 13 years old at the time, participating in a dance competition while the programme discussed the intimacy of dance and referenced studies in "*a strip club in America, that found that table dancers in America earned higher tips when the girls were at the more fertile stage of their cycle*". Mrs J's daughter was not named, but her face was shown unobscured.

Ofcom found that the broadcast of footage of Mrs J's daughter in the programme while comments of a sexual nature were made resulted in Mrs J's daughter being treated unfairly in the programme.

#### Programme summary

On 21 September 2017, Channel 5 broadcast the programme *Eamonn and Ruth's 7 Year Itch*, which followed presenters Mr Eamonn Holmes and Mrs Ruth Langsford as they celebrated their seventh wedding anniversary and explored different methods used by couples to reinvigorate their relationships after years of marriage.

Mr Holmes introduced the programme:

*"So, what do couples do to keep the flame burning if they're to avoid the dreaded seven-year itch? We'll explore that by seeing how they broaden their horizons and keep the excitement going...strap yourselves in tight, we'll get pulses racing as we look into the less conventional ways of reigniting a marriage partnership".*

The programme went on to discuss whether a good sex life was "*the key to a good married life*", as the presenters spoke to professionals offering a range of different services to couples to assist them in improving their sexual relationships. The presenters were shown as they arrived at the Rivoli Ballroom to meet Dr Peter Lovatt, a cognitive psychologist, to discuss the effectiveness of dance therapy in improving sexual intimacy between couples.

Mrs Langsford said:

*"We're here to meet pro-dancer turned psychologist, Dr Peter Lovatt, also known as Doctor Dance. He's got training in ballet, tap and jazz, and, as an expert cognitive psychologist, he runs a dance lab at the University of Herefordshire. He's spent years*

*studying the effects of dance on our love lives, and he's convinced that it's crucial to keeping a relationship fresh".*

Footage was shown of dancers as they performed in front of a crowd. Dr Lovatt said:

*"Dance is brilliant because you're literally bringing two people together. We've seen all kinds of people who have intimacy issues, and of course dancing brings them together in a very intimate way. We've seen people with control issues, dominance, admittance problems and issues with imbalances in the relationship. We can correct those using different forms of dance. It's about having a shared positive experience. We know that people have used dancing as a form of mate selection, even Darwin in the 1870s argued that dance forms part of the human mate selection process. So of course, when we are dancing together, it's the ultimate romantic act, it's just like making love".*

Mrs Langsford said:

*"Why do we find it attractive? Why would you say, 'ooh I like the way he swings his hips', or 'I like his moves, or her moves'?"*

Dr Lovatt said:

*"Well, there's some scientific research which suggests that the way we move our bodies is linked to our hormonal and our genetic makeup. The way a man moves his body is influenced by his testosterone levels. For instance, high testosterone men dance and move naturally to rhythms in a way that women find very attractive. And the way the woman dances is influenced by her fertility levels across the monthly cycle...".*

At this point, footage of the complainant's 13 year-old daughter, dancing with another young female dancer, was shown as Dr Lovatt continued:

*"...There have even been studies looking at a strip club in America, that found that table dancers in America earned higher tips when the girls were at the more fertile stage of their cycle, which is incredible. As a human race, we are still animals. We are born to dance".*

The programme went on to feature a number of married couples discussing how they have enhanced their sexual relationships, and people who provided a range of services to assist them. No further footage of Mrs J's daughter was included in the programme.

### **Summary of the complaint and broadcaster's response**

Mrs J complained that her daughter was treated unjustly or unfairly in the programme as broadcast because footage of her was included in a programme about the sexual behaviour of married couples. Mrs J said that it was inappropriate to have included footage of her daughter (who was 13 years old at the time) while "references to strippers and fertility" were made.

Channel 5 said it understood from the programme makers that the filming involving Mrs J's daughter took place at the Bournemouth Summer Festival, an event included in the United Kingdom Championships. Channel 5 said that the festival was a public event, which members of the public purchased tickets to attend.



Channel 5 said that, prior to the broadcast, the programme makers had obtained consent from the event organiser to film the dancers. It said that it understood that the filming had taken place openly, and that the programme makers had setup their equipment on the edge of the dance floor in full view of the competition participants. Channel 5 said that filming notices, which explained that the programme makers were filming the event for a programme due to be broadcast on Channel 5, were placed in three separate locations at the event:

- one in the main reception area,
- one in the main entrance of the dance hall; and
- one in the training area.

Channel 5 said that one participant came forward and asked not to be included in the programme and was excluded on this basis. In addition, Channel 5 said that the programme makers had asked the Event Organisers to make a public announcement about the filming, but that "as the film crew did not arrive until after the start of the Championships, they did not hear those announcements being made".

Channel 5 said it understood from the programme makers that they believed they had only filmed an older dance competition group. However, it said that following further enquiries, the programme makers were informed that they had filmed a dance category which included some dancers aged under 16. The broadcaster said that the programme makers had told Channel 5 that "looking at the dancers at the time, they thought that they were over the age of 16, however, they now realise this was not the case".

Channel 5 said that it accepted that the context in which the footage of Mrs J's daughter was broadcast was inappropriate, given her age. It said that as soon as the issue was brought to Channel 5's attention, the broadcaster arranged for the programme to be edited to remove the approximately four seconds of footage in which Mrs J's daughter was featured. Channel 5 said that it had advised Mrs J that this had been done and that the original version of the programme would not be repeated or made available on Channel 5's on demand service, My5. Channel 5 said that it apologised again for any distress the original broadcast may have caused. However, it said that it did not believe that it was in breach of Section Seven (Fairness) of the Ofcom Broadcasting Code ("the Code").

Channel 5 said it was clear that Dr Lovatt was talking in general terms about the joy and benefits of dance and without reference to the montage of dancers. It added that nothing that he said reflected upon any of the dancers seen in the footage and it did not consider that any of his statements, or anything else in the programme, would be likely to have affected viewers' understanding of Mrs J's daughter in a way that was unfair to her.

### **Ofcom's Preliminary View**

Ofcom prepared a Preliminary View on this case that the complaint should be upheld. Both the complainant and the broadcaster were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

## Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching this decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript of it, and both parties' written submissions.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In assessing the broadcaster's compliance with this Rule, we had regard to Practice 7.4 of the Code. Practice 7.4 states:

"If a contributor is under sixteen, consent should normally be obtained from a parent or guardian...".

Ofcom considered Mrs J's complaint that her daughter was treated unjustly or unfairly in the programme as broadcast because footage of her was included in a programme about the sexual behaviour of married couples. Mrs J said that it was inappropriate to have included footage of her daughter (who was 13 years old at the time) while references to strippers and fertility were made.

Ofcom began by considering the footage that was included in the programme as broadcast. This consisted of approximately four seconds of Mrs J's 13 year-old daughter, dancing with another female contestant at a dancing competition. Mrs J's daughter was not named, but her face was shown unobscured.

We took into account the subject matter and context in which the footage of Mrs J's daughter was included. The section of the programme focused on the effectiveness of dance therapy in improving sexual intimacy between romantic partners. Dr Lovatt explained that the way a woman dances was "*influenced by her fertility levels*" and that studies of a "*strip club*" in the USA had found that table dancers "*earned higher tips when the girls were at the more fertile stage of their cycle*".

We recognised that the inclusion of footage of Mrs J's daughter in the programme was minor and her appearance in the footage fleeting, however, we considered that she was identifiable from the unobscured footage. We also recognised that the comments made by Dr Lovatt were not intended to be a specific reference to Mrs J's daughter. Nevertheless, the footage of the dancers, including Mrs J's daughter, served as an illustration to Dr Lovatt's comments about the sexual nature of dancing.

We took into account the broadcaster's representations that filming notices were placed in three locations at the venue, stating that filming for a Channel 5 television programme was taking place, and that, on request, one participant had been excluded from the programme. Mrs J's daughter was under sixteen at the time of the filming and consent was not specifically obtained from Mrs J for her daughter to be included in the programme. It was also not clear whether Mrs J or her daughter had seen the filming notices. However, even if Mrs J had seen these notices, advising that filming was taking place, the filming notices did not provide details about the type of programme the participants were being filmed for and, in Ofcom's view, it was unlikely that Mrs J would have consented to her daughter being included in a programme which was specifically about adult relationships. We also took into account that Channel 5 accepted that, given her age, the context in which the footage of Mrs J's daughter was broadcast was inappropriate, and confirmed that the programme had since been edited to remove this content.

Within this context, and in light of the fact Mrs J's daughter was only 13 years old at the time of filming and broadcast, we considered that juxtaposing footage of Mrs J's daughter in a programme of this nature in conjunction with the sexual nature of the comments made by Dr Lovatt relating to a "*strip club*" and the fertility levels of "*table dancers*", was unfair to her in that it associated her with adult and sexualised behaviour.

Therefore, given all of the circumstances, and for the reason set out above, Ofcom considered that Mrs J's daughter was treated unfairly in the programme.

**Ofcom has upheld Mrs J's complaint of unjust or unfair treatment in the programme as broadcast.**

## Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 14 and 27 May 2018 because they did not raise issues warranting investigation.

### Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission Date	Categories	Number of complaints
The Christian O'Connell Breakfast Show	Absolute Radio	04/05/2018	Due impartiality/bias	1
Forged in Fire	Blaze	14/05/2018	Generally accepted standards	1
Live UEFA Champions League	BT Sport 2	24/04/2018	Religious/Beliefs discrimination/offence	4
News	Capital FM	30/04/2018	Commercial communications on radio	1
My Reality	CBS Reality	14/05/2018	Generally accepted standards	1
CFM News	CFM	03/05/2018	Due accuracy	1
24 Hours in Police Custody	Channel 4	21/05/2018	Disability discrimination/offence	1
Bose's sponsorship of Formula 1 Racing	Channel 4	15/04/2018	Advertising content	1
Bose's sponsorship of Formula 1 Racing	Channel 4	13/05/2018	Sponsorship credits	1
Britain's Benefit Crisis	Channel 4	07/05/2018	Due impartiality/bias	1
Channel 4 ident	Channel 4	14/05/2018	Crime and disorder	1
Channel 4 ident	Channel 4	23/05/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	01/05/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	01/05/2018	Generally accepted standards	2
Channel 4 News	Channel 4	08/05/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	11/05/2018	Due impartiality/bias	2
Channel 4 News	Channel 4	15/05/2018	Due accuracy	1
Escape to the Chateau	Channel 4	29/04/2018	Offensive language	2
F1 – Baku GP	Channel 4	29/04/2018	Generally accepted standards	1
Genderquake	Channel 4	07/05/2018	Transgender discrimination/offence	2
Genderquake	Channel 4	08/05/2018	Gender discrimination/offence	1

Programme	Service	Transmission Date	Categories	Number of complaints
Genderquake (trailer)	Channel 4	05/05/2018	Gender discrimination/offence	1
Genderquake (trailer)	Channel 4	05/05/2018	Scheduling	1
Genderquake (trailer)	Channel 4	05/05/2018	Transgender discrimination/offence	1
Genderquake (trailer)	Channel 4	06/05/2018	Transgender discrimination/offence	1
Genderquake: The Debate	Channel 4	08/05/2018	Gender discrimination/offence	2
Genderquake: The Debate (trailer)	Channel 4	11/05/2018	Generally accepted standards	1
Holiday Unpacked	Channel 4	23/04/2018	Materially misleading	1
My F-ing Tourette's Family	Channel 4	01/05/2018	Disability discrimination/offence	2
Riot Girls	Channel 4	10/05/2018	Gender discrimination/offence	5
Sunday Brunch	Channel 4	13/05/2018	Generally accepted standards	1
What Makes a Woman	Channel 4	16/05/2018	Generally accepted standards	1
5 News	Channel 5	25/04/2018	Generally accepted standards	1
Bad Tenants, Rogue Landlords	Channel 5	03/05/2018	Undue prominence	1
Bad Tenants, Rogue Landlords	Channel 5	24/05/2018	Offensive language	1
Can't Pay? We'll Take It Away	Channel 5	26/04/2018	Generally accepted standards	1
Neighbours	Channel 5	15/05/2018	Generally accepted standards	1
Our Secret World: Gypsy Kids	Channel 5	08/05/2018	Offensive language	1
Paddington Station 24/7	Channel 5	14/05/2018	Race discrimination/offence	1
The Sex Business: Porn Stars (trailer)	Channel 5	21/05/2018	Sexual material	1
Tortured by Mum and Dad: The Turpin 13 (trailer)	Channel 5	09/05/2018	Generally accepted standards	1
Yorkshire Vet	Channel 5	09/05/2018	Animal welfare	1
The Evening Schmooze	Chat Box	24/04/2018	Participation TV	1
Grizzly Tales for Gruesome Kids	CITV	19/05/2018	Offensive language	1
Classic FM News	Classic FM	30/04/2018	Elections/Referendums	1

Programme	Service	Transmission Date	Categories	Number of complaints
Jon Richardson: Ultimate Worrier	Dave	17/05/2018	Offensive language	1
Genderquake (trailer)	E4	07/05/2018	Generally accepted standards	1
The Dam Busters	Film4	20/05/2018	Offensive language	1
Dogfights	Forces TV	15/05/2018	Violence	1
Rehai	Hum Europe	15/04/2018	Generally accepted standards	1
Britain's Got More Talent	ITV	13/05/2018	Generally accepted standards	1
Britain's Got Talent	ITV	05/05/2018	Disability discrimination/offence	2
Britain's Got Talent	ITV	05/05/2018	Gender discrimination/offence	1
Britain's Got Talent	ITV	12/05/2018	Offensive language	5
Britain's Got Talent	ITV	19/05/2018	Scheduling	1
Coronation Street	ITV	02/05/2018	Generally accepted standards	1
Coronation Street	ITV	07/05/2018	Suicide and self harm	3
Coronation Street	ITV	09/05/2018	Suicide and self harm	11
Coronation Street	ITV	11/05/2018	Product placement	1
Coronation Street	ITV	11/05/2018	Race discrimination/offence	3
Coronation Street	ITV	16/05/2018	Generally accepted standards	2
Coronation Street	ITV	18/05/2018	Gender discrimination/offence	1
Coronation Street	ITV	18/05/2018	Scheduling	1
Emmerdale	ITV	01/04/2018	Generally accepted standards	1
Emmerdale	ITV	03/05/2018	Dangerous behaviour	1
Emmerdale	ITV	08/05/2018	Scheduling	1
Emmerdale	ITV	17/05/2018	Offensive language	2
Emmerdale	ITV	17/05/2018	Violence	116
Good Morning Britain	ITV	23/04/2018	Generally accepted standards	1
Good Morning Britain	ITV	24/04/2018	Materially misleading	1
Good Morning Britain	ITV	02/05/2018	Race discrimination/offence	1
Good Morning Britain	ITV	08/05/2018	Dangerous behaviour	1
Good Morning Britain	ITV	15/05/2018	Due impartiality/bias	1
Good Morning Britain	ITV	15/05/2018	Generally accepted standards	3
Good Morning Britain	ITV	16/05/2018	Gender discrimination/offence	1

Programme	Service	Transmission Date	Categories	Number of complaints
Grizzly Tales for Gruesome Kids	ITV	19/05/2018	Offensive language	1
Harry Hill's Alien Fun Capsule	ITV	12/05/2018	Generally accepted standards	4
ITV London News	ITV	25/04/2018	Due accuracy	1
ITV News	ITV	23/04/2018	Generally accepted standards	1
ITV News	ITV	25/04/2018	Due impartiality/bias	1
ITV News	ITV	05/05/2018	Due accuracy	1
ITV News	ITV	14/05/2018	Due accuracy	1
ITV News	ITV	16/05/2018	Generally accepted standards	4
Judge Rinder's Crime Stories	ITV	15/05/2018	Violence	1
Little Big Shots	ITV	29/04/2018	Under 18s in programmes	1
Little Big Shots	ITV	13/05/2018	Due impartiality/bias	2
Loose Women	ITV	20/04/2018	Sexual material	1
Loose Women	ITV	09/05/2018	Materially misleading	2
Lorraine	ITV	03/05/2018	Generally accepted standards	1
Lottoland.co.uk's sponsorship of Who Wants to be a Millionaire?	ITV	09/05/2018	Sponsorship credits	1
News at Ten	ITV	11/05/2018	Due accuracy	1
News at Ten	ITV	11/05/2018	Due impartiality/bias	2
Ninja Warrior UK	ITV	19/05/2018	Fairness	1
Peston on Sunday	ITV	22/04/2018	Due accuracy	2
Peston on Sunday	ITV	29/04/2018	Religious/Beliefs discrimination/offence	1
Peston on Sunday	ITV	06/05/2018	Materially misleading	1
Programming	ITV	22/05/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	03/05/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	07/05/2018	Scheduling	1
The Jeremy Kyle Show	ITV	11/05/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	17/05/2018	Due accuracy	1
The Keith and Paddy Picture Show (trailer)	ITV	16/05/2018	Offensive language	1
The Keith and Paddy Picture Show (trailer)	ITV	18/05/2018	Offensive language	1

Programme	Service	Transmission Date	Categories	Number of complaints
The Real Camilla	ITV	23/04/2018	Generally accepted standards	1
This Morning	ITV	26/04/2018	Scheduling	1
This Morning	ITV	27/04/2018	Generally accepted standards	1
This Morning	ITV	27/04/2018	Sexual material	1
This Morning	ITV	02/05/2018	Materially misleading	1
This Morning	ITV	03/05/2018	Nudity	2
This Morning	ITV	22/05/2018	Gender discrimination/offence	1
This Morning	ITV	22/05/2018	Materially misleading	1
This Time Next Year	ITV	01/05/2018	Materially misleading	1
Tipping Point	ITV	21/05/2018	Generally accepted standards	1
Who Wants to Be a Millionaire?	ITV	09/05/2018	Generally accepted standards	3
Who Wants to Be a Millionaire?	ITV	10/05/2018	Other	1
Who Wants to Be a Millionaire?	ITV	10/05/2018	Religious/Beliefs discrimination/offence	2
Zoe Ball on Sunday	ITV	22/04/2018	Sexual material	1
ITV News Calendar	ITV Yorkshire	01/05/2018	Elections/Referendums	1
Celebrity Juice	ITV2	17/05/2018	Generally accepted standards	1
Celebrity Juice	ITV2	17/05/2018	Offensive language	1
Family Guy	ITV2	05/05/2018	Transgender discrimination/offence	1
Plebs	ITV2	14/05/2018	Nudity	1
You've Been Framed	ITV2	14/05/2018	Generally accepted standards	1
The Real Housewives of Beverly Hills	ITVBe	16/05/2018	Generally accepted standards	1
Botched	Kanal 11 (Sweden)	30/04/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	04/05/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	05/05/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	11/05/2018	Gender discrimination/offence	1
Våra omgjorda kroppar	Kanal 11 (Sweden)	03/05/2018	Gender discrimination/offence	1
Våra omgjorda kroppar	Kanal 11 (Sweden)	04/05/2018	Gender discrimination/offence	1



Programme	Service	Transmission Date	Categories	Number of complaints
Ian Collins	LBC 97.3 FM	09/04/2018	Race discrimination/offence	1
James O'Brien	LBC 97.3 FM	18/04/2018	Materially misleading	2
James O'Brien	LBC 97.3 FM	20/04/2018	Generally accepted standards	2
James O'Brien	LBC 97.3 FM	27/04/2018	Generally accepted standards	5
James O'Brien	LBC 97.3 FM	01/05/2018	Due impartiality/bias	1
News	LBC 97.3 FM	10/05/2018	Due accuracy	1
Nigel Farage	LBC 97.3 FM	02/05/2018	Due impartiality/bias	1
Steve Allen	LBC 97.3 FM	09/05/2018	Generally accepted standards	1
Steve Allen	LBC 97.3 FM	24/05/2018	Other	1
Come Dine with Me	More4	09/05/2018	Generally accepted standards	1
Genderquake (trailer)	More4	05/05/2018	Scheduling	1
Primetime	NDTV India	08/05/2018	Due impartiality/bias	1
Criminal Minds	Pick	18/05/2018	Scheduling	1
The Chris Moyles Show	Radio X	08/05/2018	Crime and disorder	1
Westworld	Sky Atlantic	30/04/2018	Religious/Beliefs discrimination/offence	1
Premier League Darts	Sky Main Event	03/05/2018	Generally accepted standards	2
Sky News	Sky News	20/04/2018	Due accuracy	1
Sky News	Sky News	26/04/2018	Due impartiality/bias	2
Sky News	Sky News	05/05/2018	Violence	2
Sky News	Sky News	08/05/2018	Due impartiality/bias	1
Sky News	Sky News	10/05/2018	Due impartiality/bias	1
Sky News	Sky News	11/05/2018	Due impartiality/bias	1
Sky News	Sky News	18/05/2018	Due accuracy	1
The Royal Wedding	Sky News	19/05/2018	Generally accepted standards	1
The Royal Wedding	Sky News	19/05/2018	Gender discrimination/offence	1
Supergirl	Sky1	23/04/2018	Offensive language	1
Alan Brazil	Talksport	09/05/2018	Race discrimination/offence	1
Hawksbee and Jacobs	Talksport	18/05/2018	Race discrimination/offence	1
Talksport Weekend Breakfast	Talksport	19/05/2018	Scheduling	1
Ishockey matchen mellan USA och Tyskland	TV10 (Sweden)	07/05/2018	Race discrimination/offence	1

Programme	Service	Transmission Date	Categories	Number of complaints
The Intern	Universal Channel	17/04/2018	Advertising/editorial distinction	1
Programming	Various	Various	Dangerous behaviour	1
Islami Istikhara	Venus TV	09/04/2018	Harm	1
Yorkshire Stripper	Xrated40+	19/05/2018	Generally accepted standards	1
Mission: Kill Hitler	Yesterday	28/03/2018	Due accuracy	1

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

### Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Service	Transmission Date	Categories	Number of complaints
BBC News	BBC 1	01/12/2017	Generally accepted standards	1
BBC News	BBC 1	29/01/2018	Due impartiality/bias	1
BBC News	BBC 1	14/11/2017	Due impartiality/bias	1
EastEnders	BBC 1	21/12/2017	Violence	1
Newsnight	BBC 1	14/11/2017	Due impartiality/bias	1
Panorama: A Prescription for Murder?	BBC 1	26/07/2017	Due impartiality/bias	1
The Graham Norton Show	BBC 1	Various	Due impartiality/bias	1
Daily Politics	BBC 2	07/02/2018	Due impartiality/bias	1
Victoria Derbyshire	BBC 2	06/02/2018	Generally accepted standards	1
BBC News	BBC channels	15/03/2018	Race discrimination/offence	1
BBC News / Beyond 100 Days	BBC News Channel	08/02/2018	Due impartiality/bias	1
BBC Papers	BBC News Channel	22/01/2018	Due impartiality/bias	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	17/11/2017	Scheduling	1
Jeremy Vine	BBC Radio 2	30/01/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Today	BBC Radio 4	01/11/2017	Due impartiality/bias	1
Word of Mouth	BBC Radio 4	05/02/2018	Race discrimination/offence	1
Richard Rees	BBC Radio Cymru	06/05/2018	Other	1
Good Morning Scotland	BBC Radio Scotland	Various	Due impartiality/bias	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf)

### Complaints assessed under the General Procedures for investigating breaches of broadcast licences

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 14 and 27 May 2018 because they did not raise issues warranting investigation.

Licensee	Licensed service	Categories
YourTV Manchester Limited	That's Manchester TV	Programming Commitments

For more information about how Ofcom assesses complaints about broadcast licences, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/31942/general-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf)

## Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service that does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

### Complaints about television, radio or on demand programmes

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	4Seven	11/05/2018	Advertising content	1
Advertisement	5Star	06/05/2018	Advertising content	1
Advertisement	Channel 4	22/05/2018	Advertising content	1
Classic FM News	Classic FM	19/05/2018	Outside of remit	1
Autumn Assembly of Prayer	God Channel	15/05/2018	Religious/Beliefs discrimination/offence	1
Advertisement	Heart FM	Various	Advertising content	1
Advertisement	ITV	13/05/2018	Advertising content	1
Advertisement	ITV	15/05/2018	Advertising content	1
Advertisement	ITV	18/05/2018	Advertising content	1
Advertisements	ITV	Various	Advertising content	1
ITV News	ITV	18/05/2018	Outside of remit	1
Advertisement	ITVBe	24/05/2018	Advertising content	1
The Diary of Anne Frank	Jewish Broadcasting Service	27/01/2018	Outside of remit	1
Advertisement	LBC 97.3 FM	11/05/2018	Advertising content	1
Advertisement	n/a	01/05/2018	Advertising content	1
Expert Tanning	QVC	14/05/2018	Race discrimination/offence	1
13 Reasons Why	Netflix	18/05/2018	Violence	1
13 Reasons Why	Netflix	23/05/2018	Violence	1
Evil Genius	Netflix	19/05/2018	Violence	1
Various	Netflix	01/01/2018	Other	1
Billing	NOW TV	22/05/1990	Other	1
Teleshopping	QVC Style	23/05/2018	Teleshopping	1
Advertisement	Sky1	08/05/2018	Advertising content	1
Technical	Sky Q	23/03/2018	Other	1
Billing/technology	TalkTalk TV	01/09/2017	Other	1
Advertisement	Various	18/05/2018	Advertising content	1
Technical	Yupp TV	12/05/2018	Other	1

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

## BBC First

The BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the independent regulator of the BBC.

Under the BBC Agreement, Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision (the 'BBC First' approach).

The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

### Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
BBC News	BBC channels	04/05/2018	Due impartiality/bias	1
BBC News	BBC channels	19/05/2018	Outside of remit	1
Programming	BBC channels	11/01/2017	Due impartiality/bias	1
Programming	BBC channels	n/a	Due impartiality/bias	1
BBC News	BBC 1	09/05/2018	Dangerous behaviour	1
BBC News	BBC 1	15/05/2018	Due impartiality/bias	1
BBC News	BBC 1	23/05/2018	Offensive language	1
EastEnders	BBC 1	21/05/2018	Violence	4
Graham Norton Show	BBC 1	11/05/2018	Drugs, smoking, solvents or alcohol	1
Have I Got News for You	BBC 1	18/05/2018	Materially misleading	1
Panorama: Police Under Pressure	BBC 1	18/05/2018	Due impartiality/bias	1
Peter Kay Unscripted	BBC 1	07/05/2018	Transgender discrimination/offence	1
The British Academy Television Awards	BBC 1	13/05/2018	Gender discrimination/offence	5
The Royal Wedding: Prince Harry and Meghan Markle	BBC 1	19/05/2018	Materially misleading	1
The Royal Wedding: Prince Harry and Meghan Markle	BBC 1	19/05/2018	Other	1
Who Wants to Be a Bitcoin Millionaire?	BBC 1	12/02/2018	Due impartiality/bias	1
Balls of Steel	BBC 1 Wales	21/05/2018	Sexual orientation discrimination/offence	1
Newsnight	BBC 2	28/02/2018	Other	1
Springwatch	BBC 2	09/04/2018	Generally accepted standards	1
The Funeral Murders	BBC 2	19/03/2018	Due impartiality/bias	1
Famalam	BBC 3	n/a	Generally accepted standards	1

<b>Programme</b>	<b>Service</b>	<b>Transmission or Accessed Date</b>	<b>Categories</b>	<b>Number of Complaints</b>
BBC News	BBC News Channel	14/05/2018	Due impartiality/bias	1
BBC News	BBC News Channel	17/05/2018	Generally accepted standards	1
BBC News	BBC News Channel	20/05/2018	Outside of remit	1
BBC News Afternoon Live	BBC News Channel	17/05/2018	Promotion of products/services	1
Look North	BBC North East	n/a	Elections/Referendums	1
Charlie Sloth Show	BBC Radio 1	16/05/2018	Generally accepted standards	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	22/01/2018	Competitions	1
BBC News	BBC Radio 2	15/05/2018	Due impartiality/bias	2
Drivetime with Simon Mayo and Jo Whiley	BBC Radio 2	14/05/2018	Other	1
PM	BBC Radio 4	04/05/2018	Due impartiality/bias	1
BBC News	BBC Radio Leicester	16/05/2018	Due accuracy	1
Kamlesh Purohit	BBC Radio Leicester	22/04/2018	Commercial communications on radio	1

## Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 14 and 27 May 2018.

### Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date
Segodnya ("Today")	NTV Mir Baltic	2 and 3 April 2018

### Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Service	Transmission date
Britain's Got Talent	ITV	21 April 2018
Sri Guru Singh Sabha Election Debate	Sangat TV	29 September 2017

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/57388/fairness-privacy-complaints.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf)

### Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints on BBC Broadcasting Services and BBC ODPS

Programme	Service	Transmission date
BBC Inside Out West	BBC 1	26 February 2018 and repeated on BBC iPlayer

For information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints on BBC Broadcasting Services and BBC ODPS, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0003/100101/Procedures-for-the-consideration-and-adjudication-of-Fairness-and-Privacy-complaints.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0003/100101/Procedures-for-the-consideration-and-adjudication-of-Fairness-and-Privacy-complaints.pdf)