

# **Ofcom Broadcast Bulletin**

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## Introduction

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes which broadcasting licensees are required to comply. These include:

- a) Ofcom's Broadcasting Code ("the Code") which took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>
- b) the Code on the Scheduling of Television Advertising ("COSTA") which came into effect on 1 September 2008 and contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken. COSTA can be found at [http://www.ofcom.org.uk/tv/ifi/codes/code\\_adv/tacode.pdf](http://www.ofcom.org.uk/tv/ifi/codes/code_adv/tacode.pdf).
- c) other codes and requirements that may also apply to broadcasters, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code. Links to all these codes can be found at <http://www.ofcom.org.uk/tv/ifi/codes/>

From time to time adjudications relating to advertising content may appear in the Bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

It is Ofcom policy to state the full language used on air by broadcasters who are the subject of a complaint where it is relevant to the case. Some of the language used in Ofcom Broadcast Bulletins may therefore cause offence.

## Standards cases

### In Breach

#### Domino's Pizza Sponsorship of The Simpsons

*Sky One, various dates, various times between 19:00 and 21:00*

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#### Introduction

The National Heart Forum ("the NHF") contacted Ofcom concerning a television news report on "junk food advertising". The NHF stated that the report featured Domino's Pizza's sponsorship of *The Simpsons*. The NHF said the item reported that Domino's Pizza "appears to be avoiding the restriction on HFSS [high in fat, salt or sugar] advertising or sponsorship by simply not showing the pizza product during the sponsor's credits around the programme."

The NHF observed that the programme is broadcast in "peak viewing hours for children between 7pm and 9pm". It also noted that in its 2006 consultation document, Ofcom responded to concerns raised by the NHF and other consumer organisations that brand (as opposed to product) advertising and sponsorship was a potential loophole in the rules to restrict the promotion of HFSS foods to children. The NHF claimed that the credits "show everything to promote pizzas except the finished product; from the preparation and packaging to the anticipated delivery of a dial-up pizza" and believed that Domino's Pizza was "failing to observe the spirit as well as the letter of the rules."

The NHF considered that there was a breach of the rules and asked Ofcom to investigate.

The NHF noted that Ofcom had stated the following in November 2006<sup>1</sup>:

"Should advertisers choose to use brand advertising to seek to avoid product-based restrictions, this would form the focus of scrutiny in future."

#### *Regulatory Framework and Guidance*

As part of its duties under the Communications Act 2003 ("the 2003 Act") in relation to broadcasting, Ofcom is ultimately responsible for setting broadcast standards for advertising and the sponsorship of programmes. The relevant objectives to be secured by these standards include:

- that persons under the age of 18 are protected (section 319(2)(a) of the 2003 Act);
- to prevent the unsuitable sponsorship of programmes included in television services (section 319(2)(j)).

The Advertising Standards Authority ("the ASA") and Broadcast Committee of Advertising Practice ("BCAP") regulate the content of broadcast advertising, under a

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<sup>1</sup> This statement was part of a press release issued in conjunction with Ofcom's Final Statement on "New restrictions on the television advertising of food and drink products to children", see [http://www.ofcom.org.uk/media/news/2006/11/nr\\_20061117](http://www.ofcom.org.uk/media/news/2006/11/nr_20061117)

memorandum of understanding with Ofcom<sup>2</sup>. Specifically, BCAP supervises and reviews the codes that govern the regulation of broadcast advertising.

The regulation of broadcast sponsorship remains with Ofcom because of its intrinsic connection with broadcasters' editorial content. It is dealt with in Section 9 of Ofcom's Broadcasting Code ("the Code").

Rule 9.3 of the Code states:

"Sponsorship on radio and television must comply with both the advertising content and scheduling rules that apply to that medium."

In February 2006 Ofcom published its Final Statement on Television Advertising of Food and Drink Products to Children; this amended the BCAP Rules on the Scheduling of Television Advertisements ("the Rules") to specify in Rule 4.2.1(b) that:

"The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16:

...(vi) food or drink products that are assessed as high in fat, salt or sugar in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005."<sup>3</sup>

In November 2005 Ofcom published a Statement and Further Consultation in relation to Television Advertising of Food and Drink Products to Children. It noted that there were practical difficulties in identifying HFSS as opposed to non-HFSS brands and it also stated that it would not include restrictions on brand advertising at that time<sup>4</sup>.

BCAP has issued specific guidance ("Guidance") in order to help advertisers and broadcasters differentiate between HFSS and non-HFSS products in advertisements (and therefore by extension in sponsorship). This Guidance aims to give greater certainty about when the Rules that govern TV advertisements (and sponsorship) that promote, directly or indirectly, an HFSS product apply<sup>5</sup>.

### *Ofcom's Investigation*

In response to the complaint received from the NHF, Ofcom requested a recording of *The Simpsons* broadcast on 30 January 2008. The recording consisted of four episodes of *The Simpsons* transmitted back-to-back between 19:00 and 21:00. Each episode contained four sponsorship credits. The sixteen credits across the four episodes consisted of a loose narrative of two men watching television, ordering a pizza and various representations of a pizza being made and delivered and despatched. The final extended credit showed the despatch and delivery of the pizza to a home. Ofcom considers that many regular viewers of *The Simpsons* may watch all four half-hour episodes, while others would view selectively during the two-hour period, but still be exposed to a sequence of sponsorship credits, albeit not all sixteen.

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<sup>2</sup> This arrangement operates on a formal footing sanctioned by Parliament. The Memorandum of Understanding between the parties can be found at [http://www.ofcom.org.uk/consult/condocs/reg\\_broad\\_ad/update/mou/](http://www.ofcom.org.uk/consult/condocs/reg_broad_ad/update/mou/).

<sup>3</sup> The nutrient profiling scheme scores food and drink products on the basis of selected nutrients to determine whether the product is high in fat, salt or sugar.

<sup>4</sup> Paragraph 5.148

<sup>5</sup> The Guidance is available at [www.asa.org.uk/asa/code/tv\\_code/Guidance\\_Notes](http://www.asa.org.uk/asa/code/tv_code/Guidance_Notes)

The closing image of each of the sixteen credits contained the Domino's Pizza logo (with the words Domino's Pizza), the words "Domino's Delivery Service" followed by the website and the Domino's Pizza order telephone number. Each credit ended with a voice-over stating:

"The Simpsons on Sky One with Domino's – the pizza delivery experts".

The credits also featured one or more of the following:

- at least one person involved in the pizza order/delivery process;
- the sponsor's pizza packaging;
- pizza base preparation; and
- the sprinkling of pizza topping ingredients.

Ofcom sought British Sky Broadcasting Ltd's ("Sky") comments under Rule 9.3 of the Ofcom Broadcasting Code. It also drew Sky's attention to extracts from Ofcom and BCAP publications including Rule 4.2.1(b) of the BCAP Rules on the Scheduling of Television Advertisements (see above).

## Response

Sky said that, following the implementation of the BCAP requirements concerning HFSS foods, it had considered very carefully whether the Domino's/*The Simpsons* sponsorship credits were compliant and had revised them. It remained Sky's strong view that the credits did not breach either the letter or the spirit of the Rules. It also pointed out that *The Simpsons* "does not seek to exclusively target children" and that "adults comprise around 72% of a typical Simpsons audience".

The broadcaster said that Domino's Pizza is principally known for its pizza delivery service that it sells a wide range of products, and 47% of its pizza products are non-HFSS<sup>6</sup>. It added that none of the credits showed an HFSS product and the only food stuff shown was "a pizza base, flour, vegetables and an incidental image of a bowl of fruit." Sky said that it was not possible to say that these ingredients together would result in an HFSS food and nor did the credits advertise a specific HFSS food. The broadcaster stated that "the specific service being advertised is the Domino's delivery service and, in particular, the pizza delivery service". It also said that each credit concentrated on "the delivery service and show[ed] a delivery van with a brief shot of a pizza box being delivered to a customer" and that the viewer did not see what was in the pizza box.

The broadcaster said that such sponsorship credits targeted adults and not children and that it would be "entirely inappropriate to label the credits as promoting a HFSS product". Sky claimed that the credits "clearly fall within one or other of the following non-HFSS scenarios" from the BCAP Guidance on HFSS advertising regulation":

"An advertisement neither refers to nor prominently features an identifiable HFSS product"; or

"An advertisement refers to or features a brand name. That name is synonymous not with a specific HFSS product but with a range, or ranges, of different products..."

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<sup>6</sup> Analysis carried out twice for Sky allowed for menu changes during Ofcom's investigation and showed the proportion of non-HFSS pizza product to be 48% and 47% respectively

The broadcaster also believed the credits complied with the spirit of the HFSS rules. According to Sky, the sponsorship credits promoted the sponsor's delivery service, "with minimal references to the actual food product being sold". It added that, in any event, were the credits to refer simply to the Domino's brand, such brand advertising is permitted under the rules. Sky referred to Ofcom's press release which stated that:

"...There is no prohibition on brand advertising by companies whose portfolios include HFSS food or drink products – goods which, unlike tobacco and alcohol, can legally be sold to children."

Furthermore, Sky noted that "nowhere in the BCAP Rules or the BCAP Television Advertising Standards Code is it stated that food retailers, such as Domino's, cannot advertise around programming that may be of interest to children ... Such adverts just cannot feature HFSS foods."

## Decision

A sponsored programme is one which has had some or all of its costs met by a sponsor with a view to promoting its own or another's name, trademark, image, activities, services, products or any other direct or indirect interest<sup>7</sup>. Television sponsorship credits inform viewers that a programme is sponsored and let them know the identity of the sponsor, thereby informing the viewer of the sponsorship arrangement. This is part of the editorial environment and the regulation of sponsorship arrangements therefore rests with Ofcom. Sponsorship credits may include a brief description of the sponsor's brands, products or services provided. However, in accordance with Rule 9.3 of Ofcom's Broadcasting Code, sponsorship (and the associated credits) must comply with the terms of BCAP's Television Advertising Standards Code and its Rules on the Scheduling of Advertisements.

In order to establish whether these sponsorship credits were compliant, Ofcom had to consider the following key questions:

- Is *The Simpsons* likely to appeal particularly to audiences under the age of 16?
- Do the sponsorship credits promote a brand or a product and/or a service? If they promote brand alone, the HFSS rules would not apply and there would be no breach of any of the codes;
- If the credits promote products:
  - Do they promote a non-HFSS product, in which case there is no issue in relation to the codes about their transmission around programming of particular appeal to children? or
  - Do they promote an HFSS product, in which case their transmission in relation to *The Simpsons* would be prohibited (if the programme appeals particularly to audiences under the age of 16)?

Taking these questions in order:

*Is the Simpsons likely to appeal to audiences under the age of 16?*

The rules governing the promotion of HFSS products apply to the advertising and sponsorship of such products around children's programmes and programmes that are likely to have a particular appeal to audiences under the age of 16. Sky states that "...on average adults comprise around 72% of the typical Simpsons audience".

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<sup>7</sup> See section 9 of the Ofcom Broadcasting Code.

However, for the purpose of HFSS rules, Ofcom and BCAP define programmes to be of particular appeal to children when the proportion of the programme's audience that is under 16 is at least 20% higher than the proportion of under 16s that would normally be expected for a multi-channel audience. It should also be noted that programmes can be "of particular appeal" to children without necessarily being targeted at them.

In the case of *The Simpsons* on Sky One between 19:00 and 21:00 during the first quarter of 2008, the actual audience that was under 16 was 81% higher than the average expected for a multi-channel audience. The audience figures therefore show that the programme attracts a significant child audience during this time on Sky One. Advertising in or around *The Simpsons* is therefore subject to the rules on HFSS products.

*Do the sponsorship credits promote a brand or a product and/or service?*

Whether a sponsorship credit is brand sponsorship or sponsorship of a product and/or service (or other interest) is determined on a case by case basis and depends on the particular circumstances. In order to help broadcasters decide whether the Rules governing HFSS products apply, BCAP has published Guidance, which states that:

"This Guidance is intended to give greater clarity about when the rules that govern TV advertisements that promote, directly or indirectly, an HFSS product apply."

The Guidance highlights the background against which the restrictions on HFSS advertising have been introduced: namely, the concern about rising childhood obesity and reducing the demand for less healthy food options, which it describes as 'important and relevant context' to the application of the rules. Moreover, it strongly advises that advertisers should exercise caution when applying the Rules and the Guidance.

When assessing the content of the broadcast material and deciding whether a sponsorship credit promotes an HFSS product, Ofcom therefore applies the Rules in this context and against this background.

In differentiating between brand and product sponsorship Ofcom judges whether the content of the sponsorship credits promotes more than the brand name. It is clear from the broadcast material in this case that the sponsorship credits promote more than just a brand name, as is stated in Sky's reply to Ofcom:

"...the specific service being advertised is the Domino's delivery service and, in particular, the pizza delivery service".

Ofcom agrees that the sponsorship credits promote "Domino's Delivery Service" (as screened) and, as such, do not amount merely to brand (i.e. Domino's) sponsorship. We also agree that the emphasis of this delivery service promotion is on pizza delivery, rather than the delivery service itself (e.g. in terms of quality) or of other products (e.g. drinks or desserts) or a mix of products. The credits as broadcast variously show a Domino's Pizza delivery man and van, a pizza base being prepared, topping ingredients being scattered and shots of a Domino's Pizza pack as it is being prepared for delivery and then delivered. In Ofcom's view, the audience watching these credits would reasonably believe the sponsorship directly related to the supply of the sponsor's pizza product as opposed to its other products. The

emphasis on pizza delivery is also clear from the fact that each sponsorship credit concludes with the following voiceover:

*"The Simpsons on Sky One, with Domino's – the pizza delivery experts",*

reflecting the claim about pizza delivery promoted by Domino's Pizza in its retail outlets.

Further, the Domino's Pizza logo, with the words "Domino's Pizza", is clearly featured in each sponsorship credit, alongside the company's telephone order line and website (from the first page of which you can order on-line). The sponsorship as a whole focuses on the ordering of a pizza, the production of a pizza, waiting for a pizza, the despatch of a pizza, the delivery of a pizza and preparing to eat a pizza. While the credits do not feature any one complete pizza, it is clear, in Ofcom's view, that the sponsorship of *The Simpsons* on Sky One promotes not only the Domino's Pizza delivery service but also its pizzas.

Domino's Pizza is a brand that viewers associate with pizzas and Ofcom concludes that the emphasis, narrative and credit content of this Domino's Pizza sponsorship not only supports this association but also promotes the sponsor's pizzas.

*Do the credits promote an HFSS or non-HFSS product?*

We have carefully considered Sky's arguments as set out above in relation to the foodstuff that was shown and Sky's contention that it was not possible to say that such ingredients would result in an HFSS food product.

We have also considered the specific scenarios, as contained in BCAP's Guidance, that Sky believed to be applicable in determining that a sponsorship credit is unlikely to be regarded as a promotion for an HFSS product (see page xx of this finding).

However, it is also clear from the Guidance that an advertisement is likely to be regarded as a promotion for an HFSS product, when:

"An advertisement refers to or prominently features a product but does not provide enough information for the audience to identify it as a product that can be nutrient profiled. The advertiser does not provide evidence that its range of that type of product is mainly non-HFSS."

The sponsorship credits referred to products which cannot themselves be nutrient profiled. While some of the sponsorship credits showed a pizza base and other pizza ingredients, these images did not provide enough information for the audience to be able to identify any specific pizza product that could be nutrient profiled. We therefore considered, in accordance with the Guidance, whether Sky had provided evidence that the Domino's Pizza range of pizzas was "mainly" non-HFSS. Sky's own evidence submitted in relation to this case with regard to the nutrient profiles of the Domino's Pizza range shows that 47% or 48% of its pizzas were non-HFSS. This means that over half of Domino's pizzas are HFSS (i.e. food product for which advertising is restricted on grounds of high fat, sugar or salt content). Sky had not therefore provided evidence that the relevant product range (pizzas) was mainly non-HFSS.

We appreciate that Domino's Delivery Service delivers more than just HFSS pizzas. However, the sponsorship credits in this case did not refer to the delivery of any products other than pizza. Ofcom therefore considers that the sponsorship credits promoted the Domino's Pizza product range (as opposed to any of its other products)

in addition to its delivery service and that the majority of products within this range are HFSS and not non-HFSS. Accordingly, in Ofcom's view, the sponsorship credits promoted HFSS products.

### **Conclusion**

In conclusion, Ofcom considers that this particular sponsorship amounted to product sponsorship that promotes HFSS foods in programmes of particular appeal to children under the age of 16. The sponsorship was therefore in breach of Rule 4.2.1(b) of the BCAP Rules on the Scheduling of Television Advertisements and, accordingly, in breach of Rule 9.3 of the Broadcasting Code, which relates to sponsorship.

### **Breach of Rule 4.2.1(b) of the BCAP Rules on the Scheduling of Television Advertisements and Rule 9.3 of the Broadcasting Code**

## In Breach

### **Kadak, Full Volume and Fresh**

*B4U Music, various dates and times, 2008*

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#### **Introduction**

*Kadak, Full Volume* and *Fresh* are music programmes on the channel B4U Music. The programmes offered viewers the opportunity to obtain ringtones of the songs featured. Viewers could purchase a ringtone by sending a text message to a premium rate service, which cost £1.50 plus the purchaser's standard network rate.

A viewer questioned whether the promotion of ringtones within programmes was compatible with the Code.

Ofcom asked the broadcaster for its comments in relation to Rule 10.3, which states that "products and services must not be promoted within programmes. This rule does not apply to programme-related material".

#### **Response**

B4U advised that B4U Music is a music channel that aims to provide viewers with the latest music and lifestyle news from Bollywood. It explained that the programmes in question featured songs from the latest Bollywood films. Viewers were offered the opportunity to purchase the ringtones of the songs featured. B4U considered these ringtones met the definition of programme-related material because they were directly derived from the songs featured in the programmes.

The broadcaster considered that not only was the promotion of these services editorially justified, its audience would expect this type of service from the channel. It believed the supply of ringtones provided viewers the opportunity to obtain the "full benefits of the song they are watching". It also considered that the promotion of the ringtones was not unduly prominent as it appeared at the beginning or end of a song only.

#### **Decision**

Rule 10.3 prevents products and services from being promoted in programmes. The only exception to this is where promotions relate to programme-related material ("PRM"). Broadcasters must bear in mind that the ability to promote a product or service as PRM in, or around, programmes is permitted purely by way of exception to the fundamental broadcasting principle that advertising and programme content must be kept separate. For material to qualify as PRM, it must be both directly derived from a specific programme and allow viewers to benefit fully from, or interact with, that programme.

Ofcom does not accept that the ringtones promoted within the programmes met the Code's definition of programme-related material. The songs from which the ringtones were derived were not created specifically for the programme. Ofcom considers that neither the songs nor the ringtones are programme-related material. As such, it was not appropriate for the broadcaster to promote the services within the programmes.

#### **Breach of Rule 10.3**

## In Breach

### The British Comedy Awards 2008

ITV1, 6 December 2008, 21:15

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#### Introduction

The programme coverage of this annual awards ceremony was sponsored by Highland Spring water. Highland Spring was also the sponsor of the event.

One of the awards, the Best Television Comedy Highland Spring Award, was co-presented by the comedian, Frank Skinner, and a representative of the sponsor. The introduction of the sponsor's representative prompted a loud cheer from the audience. This led to a humorous exchange about Highland Spring between Frank Skinner and the show's host, Angus Deayton.

When inviting the representative to introduce the nominations, Angus Deayton, commented that she was going to "*say something about Highland Spring first*". This was followed by the representative comparing the awards to the sponsor stating:

*"I think it's lovely we have a chance to support an event that also does what Highland Spring tries to do all year round and honestly that is to make people feel better".*

A viewer was concerned that the references to the sponsor within the programme conflicted with the requirements of the Code.

We asked the broadcaster for its comments under Rule 9.5 of the Code: "There must be no promotional reference to the sponsor, its name, trademark, image, activities, services or products or to any of its other direct or indirect interests. There must be no promotional generic references. Non-promotional references are permitted only where they are editorially justified and incidental."

#### Response

Channel Television Ltd ("Channel TV"), an ITV licence holder, who is responsible for compliance of the programme on behalf of the ITV network (ITV1) responded to Ofcom. It provided Ofcom with a copy of a note issued to key production staff before the ceremony. This set out in detail what steps would be taken to ensure the programme complied with the Code. It specified that all scripted material would be checked in advance of broadcast. It also addressed the implications of an organisation sponsoring both the event and the programme.

Channel TV explained that it was customary for the event sponsor to sponsor a specific award, with a representative of the sponsor presenting the award. In past programmes this was the moment when the sponsor had sometimes received unexpected exposure despite precautions being taken. Channel TV referred to two previous ceremonies where the sponsor's presence had prompted unscripted comedic exchanges. Channel TV noted that both these occasions passed without regulatory interest.

Channel TV said that the exchanges that prompted the complaint on this occasion were entirely spontaneous, unscripted and intended for comic effect. Frank Skinner

initiated the discussion by complaining that the sponsor received a bigger cheer from the audience than he had done. Channel TV advised that the discussion then evolved and led to Angus Deayton improvising and inviting the sponsor's representative to say something further about Highland Spring before the nominations for the award were announced. The representative then delivered her short piece. Channel TV advised that at, or around this point, the producer made it clear (via 'talkback') to the host that "we had heard quite enough about Highland Spring". The exchange concluded with Frank Skinner commenting further on the sponsor's product.

Channel TV stated it had approved the representative's scripted piece in advance but could not confirm whether the reference as broadcast was exactly the same as the approved version.

Channel TV said it was unfortunate that the host did not make it clearer in his introductory remarks that the sponsor's representative was to present an award rather than appearing simply as a representative of the sponsor itself. The broadcaster said that it would have preferred it if the sponsor had not become the object of comedy and that this segment of the show had run entirely according to script. Nevertheless it considered that the exchanges were funny and their presence in a live comedy show could be seen as editorially justified.

Channel TV said it was acutely aware of the need to keep any references to the event sponsor to a minimum. It believed that, on balance, the programme did not go beyond previous occasions when, despite best efforts and intentions, the sponsor had been alluded to in ways in which the broadcaster would have preferred to have avoided completely.

## **Decision**

Ofcom acknowledges that a live comedy event such as the British Comedy Awards is likely to include unscripted jokes and comments. We also note that it has become something of a tradition for the event sponsor to become the focus of humour – albeit in an ironic fashion.

In this case we found that, on balance, the spontaneous and unscripted comedic exchanges referring to the sponsor were appropriately limited during the live broadcast, and were editorially justified, given the nature of the event.

However, after these improvised and comedic exchanges, the representative of the sponsor then took the opportunity to promote the sponsor (stating that Highland Spring tries to make "people feel better" all year round). On transmission, this appeared to be a deliberate comment and Channel TV has since confirmed that it had approved the representative's script.

Although we note that Channel TV could not confirm whether the reference as broadcast precisely matched the approved script, we are concerned that Channel TV considered it acceptable for the sponsor's representative to refer to a benefit of the sponsor's product in her introduction. There was no editorial justification for this reference, and it was not incidental. The programme was therefore in breach of Rule 9.5.

## **Breach of Rule 9.5**

## In Breach

### The Jeremy Kyle Show

*ITV1, 26 November 2008 at 09:25*

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#### Introduction

Jeremy Kyle presents a popular confessional talk show where members of the public discuss their personal problems in a frank and often confrontational manner. A viewer complained that one of the interviewees directed the word “*cunts*” at the audience as he came on stage during the programme. Ofcom wrote to the broadcaster, asking it to comment under Rule 1.14 (the most offensive language must not be broadcast before the watershed).

#### Response

ITV Broadcasting Ltd (“ITV Broadcasting”) is the holder of 11 ITV licences and is responsible for the compliance of the programme on behalf of the ITV network (ITV1). It accepted that the word should not have been used in the broadcast and apologised for any offence caused. It said that the word was not edited out due to human error since it was not heard over noise from the audience and the theme music.

In response to the error, ITV Broadcasting stated that it has taken steps to carry out a review of all episodes of the programme that are already completed and awaiting broadcast. It also said that it will be revising its compliance processes generally to ensure all inappropriate language is edited out before broadcast.

#### Decision

The word “*cunt*” is a clear example of the most offensive language. Its use in a daytime talk show was highly offensive and unacceptable, as ITV Broadcasting has acknowledged. Ofcom watched a recording of the programme and the expletive was clearly audible. Ofcom however notes that broadcast of the word on this occasion was unintentional and resulted from human error. We acknowledge ITV Broadcasting’s apology and the subsequent steps to improve compliance taken by the broadcaster. However, the broadcast of such language before the 21:00 watershed is a breach of Rule 1.14.

#### Breach of Rule 1.14

## Not In Breach

### EastEnders

*BBC One, 12 September 2008 to December 2008, 19:30 and 20:00*

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#### Introduction

*EastEnders* is a long-running and well established drama with a record for tackling hard hitting and, at times, controversial social issues. A storyline about a paedophile sexually abusing the 15 year old character Whitney, (the stepdaughter of the character Bianca), was introduced to the programme. The story started on 12 September 2008 and came to a conclusion in early December 2008.

During this time Ofcom received 90 complaints from viewers. The majority expressed concern that paedophilia was not an appropriate storyline for a pre-watershed programme. Some complainants had watched episodes with their children present and believed it was particularly unsuitable given the significant child audience the programme attracted. Viewing figures for the first episode featuring this storyline showed that the programme attracted an average of 821,000 young people under 15 – some 10% of the total audience profile.

The storyline began following the release of Bianca's partner Tony from prison, when he rejoined Bianca and her family who were now living in Albert Square. In the first episode featuring the storyline, broadcast on 12 September 2008, it was revealed to viewers that Tony had met Bianca when her stepdaughter Whitney was 12 and that he had begun sexually abusing Whitney at that time.

The closing scenes of the first episode showed Tony and the fifteen year old Whitney kissing in her bedroom and then lying back on her bed together. Some viewers expressed concern that the way in which the "relationship" between Tony and Whitney was presented in these initial episodes was inappropriate because it implied that such child abuse is acceptable and even consensual.

Ofcom continued to receive complaints as the paedophile storyline developed. Ofcom viewed the material as it was broadcast with reference to the requirements of the Code. Ofcom also considered the treatment of the issue as the storyline over the series. We reviewed the material with reference to Rule 1.3 (children must be protected by appropriate scheduling from material that is unsuitable for them) and Rule 2.3 (material which may cause offence must be justified by the context).

#### Decision

The handling of such sensitive and challenging issues as paedophilia has to be done with extreme care, especially in pre-watershed drama. It is understandable that some viewers were concerned when such a storyline was included in a programme which attracts a small but significant child audience.

The Code, itself, does not limit the subject matter that broadcasters may include in programmes. Compliance with the Code depends on how such matters are dealt with and the context in which they are broadcast. In addition Ofcom must exercise its duties in a way which is compatible with Article 10 of the European Convention on Human Rights, which provides for the broadcaster's and the audience's right to freedom of expression and the right to impart information and ideas without undue

interference. Ofcom must seek an appropriate balance between protecting young people from material that may be unsuitable for them on the one hand, and, on the other, the broadcaster's right to freedom of expression and to raise public awareness of an issue which may well affect children who watch the programme.

To comply with the Code, broadcasters must apply generally accepted standards to content to ensure that there is adequate protection from offensive or harmful material. Therefore, broadcasters must ensure that any offensive material is justified by the context. Further, broadcasters must protect children by appropriately scheduling programmes.

It has always been the focus of *EastEnders* to tackle challenging social issues which reflect contemporary life and storylines featuring the sexual abuse of children have featured in the programme previously. Over the last few years, for example, these have included the rape of the character Kat Slater by an uncle at 13, and the character Bianca previously having an under age sexual relationship with her mother's partner, Dan. What distinguished this child sex abuse storyline to those featured before however was that the abuse of Whitney, as depicted after Tony's release from jail, was played out to some degree on screen (rather than off screen). Further, it presented the process of "grooming" where the paedophile gains the trust of the young person and of those around them for the purpose of sexual contact.

Rule 1.3 requires the broadcaster to ensure that children are protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content; the likely number and age range of the audience; the start and finish time of the programme; and likely audience expectations.

Ofcom took the view that, in principle, the subject matter did not necessarily exceed the boundaries of acceptability for a pre-watershed drama such as *EastEnders*. Such dramas frequently deal with sensitive and uncomfortable subjects and child abuse has featured in pre-watershed soaps previously. The issue for Ofcom to consider was whether the broadcaster provided adequate protection to viewers and young people, who made up some 10% of the viewing audience on 12 September 2008, from the inclusion of material which may cause offence.

In terms of the likely expectations of the audience, Ofcom noted that the storyline was brought to the attention of the audience before it commenced on 12 September 2008. An announcement was made by the BBC, in early July 2008 for example, highlighting the forthcoming paedophile storyline and it was extensively covered in the national press and TV listings magazines ahead of the start of the storyline. There was also an information announcement before the start of the second episode broadcast on 15 September 2008 which stated: "...with sinister intent Tony continues to abuse his position of trust". All of the episodes featuring the paedophile storyline were followed by an announcement and caption for a BBC Action Line for those affected by the issues raised.

Although *EastEnders* is not made specifically for children, it does attract a significant but small child audience and therefore any portrayal of sexual issues needs to be carefully considered with this in mind. In terms of the nature of the editorial content, Ofcom assessed whether the overall tone and treatment of the subject matter ensured a sufficient level of protection for children.

Ofcom noted that the complainants expressed concern that the storyline initially commenced with what briefly appeared on screen to be a consensual sexual

relationship between Tony and the 15 year old Whitney. Ofcom took the view that given the type of sexual abuse presented in this storyline was “grooming”, and that guidance was provided by the children’s charity NSPCC on the storyline, this first intimate scene was appropriate as it revealed the insidious nature of the abuse. Grooming is often conducted over a period of time with the perpetrator gaining trust with family and friends and building up a long term, albeit secretive, relationship with the victim in which they encourage them to believe it is loving and acceptable.

As the storyline quickly unfolded, and even as early as the second episode after this initial scene, the true nature of the “relationship” between Tony and Whitney was explicitly revealed to the viewer. He was shown to be a manipulative, sinister and controlling character who had groomed not just Whitney but Bianca too, by preying on and gaining the confidence of a vulnerable single mother to gain access to her troubled young stepdaughter solely for the purpose of sexual abuse.

In addition, a sub-plot was established that Tony was disenchanted with Whitney as she was growing older and looking more mature. He then began to divert his attention to grooming the younger character Lauren. In this way the broadcaster ensured that the focus of the storyline remained on the concept of grooming and did not disproportionately dwell upon the physical nature of the sexual abuse of Whitney.

In terms of the treatment of the storyline, scenes featuring Tony and Whitney in the bedroom were also appropriately limited for a pre-watershed programme. They were never shown in bed, unclothed or engaged in anything more intimate than brief kissing.

Ofcom also noted that the culmination of the storyline in December, which featured Whitney revealing Tony’s crime to Bianca, provided the appropriate conclusion. Tony was arrested and Whitney was clearly presented as a victim of paedophilia.

Ofcom noted that the production team approached the storyline with the close guidance of the NSPCC who advised on both the story development and the script. The BBC also sought advice from The Rape and Sexual Abuse Support Centre, social workers and the Metropolitan Police to ensure it was a true reflection of the way such child abuse takes place.

This storyline explored a social taboo that is not necessarily comfortable family viewing. However, it did so within a programme that has a well established reputation for handling such issues and was appropriately scheduled. Ofcom considers that the broadcaster treated the subject matter appropriately and sensitively. Such storylines which reach a large audience can actually have a positive impact. It is noted, for instance, that the programme prompted a significant number of viewers, who had experienced sexual abuse, to respond to the Action Line telephone number and to write to the programme makers outlining their similar experiences.

### **Not in Breach**

## Not In Breach

### The Alternative Christmas Message

Channel 4, 25 December 2008, 19:15

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#### Introduction

*The Alternative Christmas Message* was an address to the UK audience by President Ahmadinejad of Iran. It was the latest of such annual messages which have been broadcast by Channel 4 over the years. Ofcom received 295 complaints concerning the programme. It featured a seven-minute address from the Iranian President, preceded by a short film that gave a commentary on controversial political and social issues relating to Iran and President Ahmadinejad.

The complainants considered it offensive and inappropriate for airtime to be given to President Ahmadinejad, known for his controversial views and policies on issues such as the Holocaust, women, and homosexuals. Some complainants believed it was especially insulting for such a programme to be broadcast on Christmas Day.

Ofcom noted that prior to President Ahmadinejad's address, there was a short overview of issues relating to Iranian policy or the personal views of the President, including: Iran's nuclear policy; the accusation that Iran has armed Shi'ite militias active in Southern Iraq; the capture and release of 15 British sailors by Iranian authorities in 2007; President Ahmadinejad's questioning of the extent of the Holocaust; and Iranian use of executions, stonings and torture.

In his address, President Ahmadinejad stated that, in his view, the problems of humanity could be linked to the indifference of people and governments to the teachings of the various prophets of the Abrahamic faiths<sup>1</sup>, including Jesus Christ. He added his view that, if Jesus Christ were alive today, he would be against warmongering, terrorism, and what President Ahmadinejad termed the "*tyrannical policies of prevailing global, economic and political systems*". He then went on to say:

*"We believe Jesus Christ will return along with one of the children of the revered messenger of Islam<sup>2</sup> and will lead the world to love, brotherhood and justice. The responsibility of all followers of Christ and Abrahamic faiths is to prepare the way for the fulfilment of this divine promise and the arrival of that joyful, shining and wonderful age."*

Ofcom asked Channel 4 to comment under Rule 2.3 of the Code (material that may cause offence must be justified by the context).

#### Response

Channel 4 said that it had broadcast *The Alternative Christmas Message* on Christmas Day for many years. In that time, the message had been delivered by a diverse range of people including an injured veteran from the war in Afghanistan, Quentin Crisp, the Rev. Jesse Jackson, a "9/11" survivor, and a British Muslim woman in a veil. Channel 4 added that, "the aim of the programme is to provide a

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<sup>1</sup> Commonly considered to be the three monotheistic faiths that claim descent from the Jewish Patriarch Abraham i.e. Christianity, Islam and Judaism.

<sup>2</sup> A reference to the descendents of the Prophet Mohammed.

different and sometimes challenging perspective, consistent with Channel 4's remit to be innovative and distinctive and serve the needs of a culturally diverse society".

Channel 4 said that after the broadcast, it had received 217 positive comments from viewers, all of whom supported the decision to broadcast the programme. The broadcaster pointed to its history of broadcasting about Iran, with the programme being the latest example of content "designed to draw attention to the political environment in Iran in a way which would allow viewers to make up their own minds about what they thought". It added that the decision to broadcast the programme had been taken after extensive discussions at a senior level within the broadcaster, mindful of Channel's public service remit.

The broadcaster considered that complainants were not objecting to the content of the broadcast, rather the concept of the programme, and Channel 4 considered such complaints to be "attempts to fetter freedom of expression". In Channel 4's opinion, the actual content of the programme was not offensive and "concentrated on offering good will to the followers of all [the] world's main monotheistic religions at Christmas". However, conscious that the choice of this particular contributor in the programme would divide opinion, and to place President Ahmadinejad in the correct context, the address was preceded by a short film highlighting the President's "controversial record". Furthermore, Channel 4 considered it critical that the audience should be able to hear the President's voice directly. Given the above, Channel 4 said it was satisfied that "viewers had sufficient information to make up their own minds about the President, his message and Iran".

## Decision

Ofcom recognises that, at times, offence can be caused not by the actual content of a programme but by the very fact that people with controversial views are given airtime. Any potential offence in these circumstances can be exacerbated if viewers or listeners consider that such contributors' views are not properly challenged or contextualised.

In this case, a foreign leader, renowned for his controversial views and policies, was able to present to camera an unedited message to a UK audience. Ofcom recognises that broadcasters are allowed to include any contributor they wish in their programming, as long as the Code is complied with. Ofcom is also aware of Channel 4's statutory remit to provide: "a broad range of high quality and diverse programming, which in particular demonstrates innovation, experiment and creativity in the form and content of programmes"<sup>3</sup>.

Ofcom acknowledged that this programme, taken in its entirety, would have been challenging and upsetting to a number of people. However, in judging whether the offence caused represented a breach of the Code, Ofcom must take into account the broadcaster's right to freedom of expression, which includes the right to hold opinions and to receive and impart information and ideas without interference by public authority<sup>4</sup>. The Code places no restrictions on the subjects covered by broadcasters, the manner in which such subjects are treated, the contributors used, or the day or time they are broadcast, so long as offensive material that is broadcast is justified by the context.

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<sup>3</sup> Communications Act 2003, s.265.

<sup>4</sup> As enshrined in Article 10 of the European Convention on Human Rights.

Whilst President Ahmadinejad gave what was an unmediated address to camera, Ofcom noted that this was importantly preceded by a short report, summarising the controversial issues and events which have been connected to him and his presidency. For example, Ofcom noted the following commentary in this segment of the programme:

*“Ahmadinejad has repeatedly used anti-Israeli rhetoric and has questioned the numbers of Jews killed in the Holocaust. This month, the UN called on Iran to improve its human rights record by abolishing torture and public executions, including stonings and ending discrimination against women and religious and ethnic minorities”.*

Such an approach to the subject matter helped put the address in context. The *Alternative Christmas Message* has traditionally provided a forum for the views of diverse contributors that would not ordinarily be heard by mainstream audiences. Such contributions can be contrasted with more traditional Christmas messages, for example as delivered by the Queen, which are broadcast on other channels at this time of year. The programmes can be seen to be of interest to the many viewers who see Christmas as a time for spiritual contemplation. Further, their provision clearly chimes with Channel 4's distinctive remit to provide provocative, innovative and challenging programming.

Ofcom considered that President Ahmadinejad's contribution was put in sufficient context by the preceding commentary, which furnished the audience with useful background information on this particular contributor. Further, the actual content of his address could be described as non-confrontational, comprising as it did, a message of good will to the UK audience.

We therefore believe that the large majority of the audience would, in general, have not considered the material to be beyond what would normally be expected from this programme on this particular channel, the broadcast of this potentially offensive material was justified by the context. Therefore, the programme was not in breach of Rule 2.3.

### **Not in Breach**

## Fairness and Privacy Cases

### Upheld

#### **Complaint by Mr Carl-Gustav Yrwing on his own behalf and on behalf of Mrs Eva Yrwing**

*Kustbevakarna (The Coastguards), Kanal 5, 18 February 2008*

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**Summary:** Ofcom has upheld this complaint of unfair treatment and unwarranted infringement of privacy in the programme as broadcast.

This programme focused on the work of Swedish coastguards and the problem of drink-driving at sea. It included footage of events following a boating accident involving Mr Carl-Gustav Yrwing and Mrs Eva Yrwing, his wife. The programme suggested that Mr and Mrs Yrwing were intoxicated at the time of the accident and the coastguards were shown questioning bystanders and a member of the ambulance crew about the cause of the accident and whether or not Mr and Mrs Yrwing had been drinking alcohol. Mr and Mrs Yrwing were being treated in the ambulance at the time of filming. Towards the end of the programme, one of the coastguards said that Mr and Mrs Yrwing “won’t be charged because there is nothing to go on”. Although Mr and Mrs Yrwing were not named or shown in the programme, footage of their boat was shown.

Mr and Mrs Yrwing complained that the programme unfairly implied that the accident had been the result of their having consumed alcohol on board their boat. They also complained that their privacy was unwarrantably infringed in the broadcast of the programme in that: their consent was not sought at the time of filming; they were unaware that the footage would be broadcast; and they were identified in the programme through footage of their boat which was shown in detail.

In summary, Ofcom found the following:

- Ofcom noted the broadcast of the footage of the accident scene and of Mr and Mrs Yrwing’s boat, along with the comments of the coastguards. In Ofcom’s view, this material would have been likely to have led viewers to believe that Mr and Mrs Yrwing had been drinking alcohol at the time of the accident, but that charges could not be brought against them for lack of corroborative evidence. Ofcom found that in the absence of material to support the suspicion that they had been boating under the influence of alcohol, and in the absence of an opportunity for Mr and Mrs Yrwing to respond to this allegation, the programme resulted in unfairness to Mr and Mrs Yrwing.
- Ofcom considered that Mr and Mrs Yrwing had a legitimate expectation of privacy in relation to the inclusion of footage of their boat in the context of a programme which suggested that alcohol consumption had been the cause of the accident in which they were involved. It considered that their privacy was infringed by the inclusion of the footage of the accident scene and their boat, which was shown in detail and was distinguished from the other boats in the marina by an Italian flag flown on it. Ofcom found that the inclusion of this material was not warranted by the content and context of the programme. Ofcom considered that as the coastguards had no evidence to confirm their

suspicions that the accident had been caused by drinking alcohol, there was no justification to include the footage of Mr and Mrs Yrwing's boat.

## **Introduction**

On 18 February 2008, Kanal 5 (a Swedish satellite television channel licensed in the UK and owned by SBS Broadcasting Networks Limited ("SBS Broadcasting")) broadcast an episode of *Kustbevakarna (The Coastguards)*, a series which looked at the work of the Swedish coastguard and the Swedish Sea Rescue Society.

This episode focused on the work of the coastguards as they dealt with incidents during the summer of 2007 in the archipelago around Stockholm. One of the incidents featured in the programme was a boating accident involving Mr Carl-Gustav Yrwing and Mrs Eva Yrwing, his wife. Members of the coastguard team were shown in the programme arriving at the scene of the accident after Mr and Mrs Yrwing had been put into an ambulance. The coastguards approached a member of the ambulance crew and questioned her about the cause of the accident and whether or not Mr and Mrs Yrwing had been drinking alcohol. The coastguards were also shown questioning bystanders about the circumstances surrounding the accident and were heard to suggest to each other that the accident may have been a result of alcohol being consumed by Mr and Mrs Yrwing while on board their boat. Towards the end of the programme, one of the coastguards was shown saying that Mr and Mrs Yrwing "*won't be charged because there is nothing to go on*". Mr and Mrs Yrwing were not named or shown in the programme. However, footage of their boat and the marina where it was berthed when the accident happened was included in the programme.

Mr Yrwing complained to Ofcom on his own behalf and on behalf of his wife that they were treated unfairly in the programme and that their privacy was unwarrantably infringed in the programme as broadcast.

## **The Complaint**

### **Mr and Mrs Yrwing's case**

In summary, Mr Yrwing complained that he and his wife were treated unfairly in the programme in that:

- a) The programme unfairly implied that the accident in which they were involved had been the result of having consumed alcohol on board their boat. As a result, the suggestion was made that the couple combined drinking with sailing, which was untrue. In particular, Mr Yrwing complained that the coastguards were shown questioning a member of the ambulance crew about whether or not he and his wife had been drinking. This was irrelevant as the accident had happened in the harbour and not on the open sea, where it is illegal to drink alcohol when in charge of a vessel. By way of background, Mr Yrwing said that the programme-makers did not check the facts surrounding the accident properly.

In summary, Mr Yrwing complained that his privacy and that of his wife was unwarrantably infringed in the programme as broadcast in that:

- b) Neither he nor his wife gave permission for the footage of them to be broadcast and they were not informed that the footage of the aftermath of the accident would be broadcast.

- c) Mr and Mrs Yrwing were identified because their boat was shown in detail in the broadcast programme. This resulted in their identification because the boat was distinct in that: it was the only boat of its kind in this particular part of the marina; it was the only boat in the marina with an Italian flag; the location of the marina was identified on the programme; and the complainants and their boat were well known in the area.

### **SBS Broadcasting's case**

In summary, SBS Broadcasting responded to Mr and Mrs Yrwing's complaint of unfair treatment as follows:

- a) SBS Broadcasting said that one of the reasons for making the programme was to illustrate the problem of boating under the influence of alcohol and other maritime traffic offences committed off Sweden's coast, and the general public's lenient attitude towards such crimes in Sweden. It stated that the programme presented all the facts that were gathered by the coastguards at the location where the incident involving Mr and Mrs Yrwing occurred. On the facts that the coastguards had been able to ascertain at the scene, including an examination of Mr and Mrs Yrwing's boat and talking to the ambulance crew, the coastguards had made the initial assessment that Mr and Mrs Yrwing had been intoxicated. However, after discussing the matter with the local police, the coastguards concluded that they did not have sufficient evidence, namely any independent eye witness account, to prove that Mr and Mrs Yrwing had been drunk while in charge of their boat. SBS Broadcasting said that it was evident from the programme that no criminal charges were brought against Mr and Mrs Yrwing.

In summary, SBS Broadcasting responded to Mr and Mrs Yrwing's complaint that their privacy was unwarrantably infringed in the programme as broadcast as follows:

- b) In relation to the complaint concerning consent, SBS Broadcasting said that the programme makers had been instructed to inform all those filmed that the purpose of filming was for a programme to be broadcast on Kanal 5. The programme makers had prepared a written document for this purpose which included details of the programme and the contact name and number of the producer. SBS Broadcasting said that it was not aware prior to broadcast that this information had not been given to Mr and Mrs Yrwing. SBS Broadcasting said that it assumed that the programme makers had found it unnecessary, or impossible, to provide this information to Mr and Mrs Yrwing since they did not appear on camera because they were inside the ambulance the entire time the film crew were at the scene. SBS Broadcasting said that Mr and Mrs Yrwing's consent was not required as it was not possible to identify them from the footage shown in the programme.
- c) SBS Broadcasting said that it was not possible to identify Mr and Mrs Yrwing from the footage included in the programme. It said that Mr and Mrs Yrwing's boat was not so distinct that it could be identified by the footage shown of it in the programme. The footage shown of the marina when the coastguards arrived was fleeting and it showed a number of boats being berthed, not just Mr and Mrs Yrwing's boat. SBS Broadcasting said that the detail of Mr and Mrs Yrwing's vessel could hardly be distinguished in the dusk and that viewers' attention would have been focused on a diver who appeared standing on board the boat during the very short time that it was shown. SBS Broadcasting said that when the boat was shown from the front, it was also impossible to distinguish it from any of the other boats in the marina. SBS Broadcasting emphasised that one of the

coastguards commented in the programme that the boat “*looks just like any other boat*” when examining the exterior of the vessel.

## 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 unfair treatment in programmes included in such services and unwarrantable infringement of privacy in the making and in the broadcast of programmes included 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. This case was considered by Ofcom’s Executive Fairness Group. Ofcom considered the complaint and the broadcaster’s response (including supporting material), the recordings and transcripts of the programme as broadcast, and the unedited footage taken at the scene of the accident. In its considerations, Ofcom took account of Ofcom’s Broadcasting Code (“the Code”).

### *Unfair treatment*

Ofcom first considered head a) of Mr and Mrs Yrwing’s complaint that they were treated unfairly in the programme in that the programme unfairly implied that the accident in which they had been involved had been the result of having consumed alcohol while sailing. The complainants said this was untrue.

In considering this aspect of Mr and Mrs Yrwing’s complaint, Ofcom took account of Rule 7.1 of Ofcom’s Broadcasting Code (“the Code”), which states that broadcasters must avoid unjust and unfair treatment of individuals or organisations in programmes. Ofcom also took account of Practice 7.9 which states that broadcasters must 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.

Ofcom noted that the stated purpose of the programme was to highlight the problem of boating under the influence of alcohol and other maritime related offences and the Swedish public’s apparent leniency towards such crimes. It noted that the programme contained a number of incidents, in which the coastguards were called to attend, that were apparently caused by those in charge of boats at sea being under the influence of alcohol. Ofcom took note that the footage in the programme of the incident involving Mr and Mrs Yrwing clearly showed the coastguards investigating the cause of the accident and questioning the emergency services that attended the scene and bystanders in order to ascertain what caused the accident. The coastguards asked a member of the ambulance crew:

Coastguard: “*Were they pretty drunk? Do you know what happened?*”  
Ambulance: “*She said that he has a tendency to faint.*”

Ofcom noted that the coastguards were shown in the programme to have suspected the two people receiving treatment by the ambulance crew of being drunk at the time of the accident, but that no evidence was included in the

programme to support their suspicion. Ofcom took note of the following comments made by one of the coastguards:

*“... it might have been the alcohol.”*

*“There are drinks on the boat but that doesn’t prove anything. It’s probably boating under the influence [of alcohol] but since nobody has seen them drive the boat and it was a while ago, there’s nothing we can do”.*

Towards the end of the programme, one of the coastguards stated that:

*“We’ll write a memo that they’ve [Mr and Mrs Yrwing] been here and leave it at that. They won’t be charged because there’s nothing to go on”.*

Ofcom took the view that although the programme included this reference at the end of the programme (that is, that the two people involved in this particular incident were not charged with any offence) the inclusion of the footage of this accident was in the context of a programme that focused on boating under the influence of alcohol and other maritime related offences at sea. Taking this along with the comments of the coastguards, Ofcom considered that the programme did imply that the couple at the centre of this accident were suspected of drinking or being intoxicated while berthing their boat and but that no charges could be brought against them only because of the lack of evidence.

Ofcom acknowledged that Mr and Mrs Yrwing were not named or shown in the programme. However Ofcom considered (for the reasons give in the Privacy section below) that they were rendered identifiable through the daylight and night time footage of their boat and its position in the marina. In Ofcom’s view, the boat would have been recognisable to those who knew Mr and Mrs Yrwing’s boat and this connection would have rendered them identifiable as the couple involved in the accident and suspected by the coastguards of boating under the influence of alcohol.

In these circumstances, Ofcom considered that the inclusion of the footage of the accident scene and Mr and Mrs Yrwing’s boat, along with the comments of the coastguards in the programme, would have been likely to have led viewers to believe that Mr and Mrs Yrwing had been drinking alcohol at the time of the accident and that it was solely due to the lack of corroborative evidence that charges could not be brought against them.

In Ofcom’s view the programme makers did not take reasonable care to satisfy themselves that material facts had been presented fairly in this portrayal of Mr and Mrs Yrwing and the circumstances surrounding the accident. In coming to this view Ofcom noted that no material was provided in support of the claim made about them (that alcohol was the cause of the accident and only lack of corroborative evidence prevented charges being brought) beyond the suspicions of the coastguards. Furthermore this amounted to a serious allegation and the programme makers did not take steps to provide Mr and Mrs Yrwing with an opportunity to respond to it. In these circumstances Ofcom found that the programme resulted in unfairness to Mr and Mrs Yrwing.

### *Privacy*

Ofcom next considered heads b) and c) of Mr and Mrs Yrwing’s complaint that they did not give permission for the footage of them to be broadcast and that they

were not informed that footage of the aftermath of the accident would be broadcast. Also, Mr and Mrs Yrwing complained that they were identified in the programme because their boat was shown in detail. In showing this footage, Mr and Mrs Yrwing complained that their privacy was unwarrantably infringed in the programme as broadcast.

Ofcom recognises that the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted? (Rule 8.1 of the Code). Ofcom also took into account Practice 8.6 of the Code which states that if a broadcast would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement is warranted.

Ofcom first considered whether or not Mr and Mrs Yrwing had a legitimate expectation of privacy in relation to the footage taken at the scene of the accident in which they were involved and the inclusion of footage of their boat. The Code explains that "legitimate expectations of privacy will vary to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and where the individual concerned is already in the public eye".

Ofcom noted that the programme broadcast footage which had been taken in and around the marina. While Ofcom acknowledged that the marina was a public place, it also took account of the fact that it was, at the time, the scene of Mr and Mrs Yrwing's accident. Ofcom noted that the footage of the marina included discussion as to the cause of the accident and speculation as to whether or not the consumption of alcohol had been the cause of it. Ofcom considered that the private nature of this material heightened any expectation of privacy in relation to the footage.

Ofcom acknowledged that the complainants were not shown or named in the programme, nor were they identifiable from the images of the outside of the ambulance in which they were being treated, nor from footage of the emergency services at the scene. However, Ofcom considered that they were rendered identifiable through the daylight and night time footage of their boat. In particular, the daylight footage clearly showed its precise berthing position in the marina. It was also shown to display an Italian flag which further distinguished it from the other boats berthed there. Ofcom considered that the boat would have been recognisable to people who knew it, and through association with it Mr and Mrs Yrwing could be identified as the owners. This, in Ofcom's view, rendered them identifiable as the couple involved in the accident and suspected by the coastguards of being intoxicated at the time of the accident. Therefore, in these circumstances, Ofcom took the view that the complainants did have a legitimate expectation of privacy with regard to the broadcast of the footage of the accident and their boat, given the context in which the footage was used.

Having concluded that Mr and Mrs Yrwing did have a legitimate expectation of privacy, Ofcom went on to consider whether their privacy was infringed in the programme as broadcast.

Ofcom noted that while neither Mr nor Mrs Yrwing were named or shown in the programme, images of their boat and the marina in which it was berthed were

included in the programme. In Ofcom's view, the images of the boat connected Mr and Mrs Yrwing with the accident and this provided viewers with identifying information about them in the context of speculation that they had been drink driving. Ofcom concluded therefore that the inclusion of this footage in the programme did infringe Mr and Mrs Yrwing's privacy.

Ofcom finally considered whether the inclusion of the footage of scene of the accident and their boat (which rendered Mr and Mrs Yrwing identifiable in the programme) was warranted. Ofcom found that the inclusion of this material was not warranted by the content and context of the programme, namely a programme that focused on the incidents of boating under the influence of alcohol and other maritime related offences. Ofcom considered that as the programme provided no evidence to support the coastguards' suspicions that the accident had been caused by drinking alcohol, there was no justification to include the footage of either the scene of the accident or Mr and Mrs Yrwing's boat. Ofcom therefore found that Mr and Mrs Yrwing's privacy was unwarrantably infringed in the broadcast of the programme.

**Accordingly, Ofcom has upheld Mr and Mrs Yrwing's complaint of unfair treatment and unwarranted infringement of privacy in the broadcast of the programme. The broadcaster was found in breach of Rule 7.1 and 8.1 of the Code.**

## Not Upheld

### **Complaint by Mrs Clare O'Grady on her own behalf and on behalf of Mrs Teresa Clayton (her mother) and Mr James O'Grady (her husband)**

*The Jeremy Kyle Show, ITV1, 7 May 2008*

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**Summary:** Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy.

On 7 May 2008, ITV1 broadcast an edition of *The Jeremy Kyle Show* which included an item entitled "Today I disown my sister", which focused on the relationship between Mrs O'Grady and Ms Clayton, her sister. Both Mrs O'Grady and her sister, along with their mother, Mrs Clayton, and Ms Clayton's partner, participated in a studio discussion which explored the difficulties in their relationship and the possible reasons for them. During the discussion, reference was made to Mr O'Grady (Mrs O'Grady's husband) serving a five year prison sentence.

Mrs O'Grady complained on her own behalf and on behalf of Mrs Clayton and Mr O'Grady that the programme was broadcast without their consent and that their privacy was unwarrantably infringed in the broadcast of the programme.

In summary, Ofcom found the following:

- Ofcom considered that Mrs O'Grady and Mrs Clayton were properly informed about the nature of the programme and provided informed consent for their participation. Ofcom noted Mrs O'Grady's and Mrs Clayton's active engagement with the programme making process and considered that the nature of the programme did not significantly change in a manner which could have affected their consent to participate. Ofcom therefore found that Mrs O'Grady and Mrs Clayton were not treated unfairly by the inclusion of the footage of them in the programme.
- Ofcom recognised that the nature of the information revealed by participants in a programme of this type may be personal or sensitive and may be likely to attract an expectation of privacy. However, in Mrs O'Grady's and Mrs Clayton's case, Ofcom was satisfied that they had understood the nature and format of the programme and the nature of their contribution to it. They had also provided informed consent to participate. In these circumstances, Ofcom concluded that neither Mrs O'Grady nor Mrs Clayton had a legitimate expectation of privacy and therefore their privacy was not infringed in the broadcast of the programme.
- Ofcom recognised that information was disclosed about Mr O'Grady of a personal nature. However, Ofcom was satisfied that Mr O'Grady did not have a legitimate expectation of privacy in the disclosure of information relating to him serving a five year prison sentence, which is a matter of public record, and that his privacy was not unwarrantably infringed in the broadcast of the programme.

#### **Introduction**

On 7 May 2008, ITV1 broadcast an episode of *The Jeremy Kyle Show* that included an item entitled "*Today I disown my sister*" which focused on the relationship

between Mrs Clare O'Grady and Ms Michelle Clayton ("Ms Clayton"), her sister. Mrs O'Grady had agreed to take part in the programme after her sister had appeared on a previous edition of the programme with her partner, Mr Graham Paul, to discuss, among other things, the upbringing of their child and Mr Paul's battle with alcohol addiction. Mrs O'Grady said that she had wished to raise her concerns about what she believed to be the reality of Ms Clayton's and Mr Paul's relationship and the unsatisfactory manner in which she believed the couple treated other people and cared for their child. Both Mr Paul and Mrs O'Grady's and Ms Clayton's mother, Mrs Teresa Clayton ("Mrs Clayton"), also participated in the programme.

During the programme, Mrs O'Grady and Mrs Clayton made various allegations about Mr Paul and Ms Clayton, including allegations that Ms Clayton had tried to "*sell her body*" and that she had been violent towards her child and another family member. It was also alleged that Mr Paul continued to abuse alcohol and that Ms Clayton's and Mr Paul's home was an unsuitable environment for a small child. Ms Clayton and Mr Paul denied all of the allegations levelled against them and in turn accused Mrs O'Grady and Mrs Clayton of interfering in their lives and of being jealous of them. During the discussion, Mrs Clayton admitted that she had shown favouritism towards Mrs O'Grady over Ms Clayton when they were children. Mrs O'Grady also admitted to having reported her sister to social services because of her concerns for Ms Clayton's and Mr Paul's child. At the end of the discussion, Jeremy Kyle advised both Mrs O'Grady and Mrs Clayton that they should stop interfering in Ms Clayton's and Mr Paul's lives.

Reference was also made during the programme to Mrs O'Grady's husband, Mr James O'Grady. It was revealed that Mr O'Grady (referred to once in the programme as "James" by Ms Clayton) was serving a five year prison sentence.

Mrs O'Grady complained to Ofcom on her own behalf and on behalf of Mrs Clayton that they were treated unfairly in the programme and that their privacy was unwarrantably infringed in the broadcast. Mrs O'Grady also complained on behalf of her Mr O'Grady that his privacy was unwarrantably infringed in the broadcast of the programme.

## **The Complaint and Broadcaster's Response**

### **Mrs O'Grady's case**

In summary, Mrs O'Grady complained that both she and Mrs Clayton were treated unfairly in that:

- a) The programme was broadcast without their consent. Mrs O'Grady and Mrs Clayton said that they had consented to taking part in the programme, but felt that they were "treated like scum" and their rights were ignored. As a result of their treatment, Mrs O'Grady and Mrs Clayton said that they had withdrawn their consent to appear in the programme after the recording had taken place.

In summary, Mrs O'Grady complained that her privacy and the privacy of Mrs Clayton was unwarrantably infringed in the broadcast of the programme in that:

- b) The programme was broadcast without their consent. They had withdrawn their consent to appear in the programme, but their request was ignored by the programme makers.

In summary, Mrs O'Grady complained on behalf of Mr O'Grady that his privacy was unwarrantably infringed in the broadcast of the programme in that:

- c) Reference was made to Mr O'Grady, who was in prison, when he had not consented to be involved in the programme.

### **ITV's case**

In summary, ITV responded to the complaint as follows:

- a) ITV said that Mrs O'Grady had contacted the programme after her sister and Mr Paul had appeared in a previous edition of the programme. ITV said that Mrs O'Grady told the programme makers that the way Ms Clayton and Mr Paul had presented themselves in the programme had angered her and she wanted to come onto the programme to voice her concerns about them as parents. Although Mrs O'Grady and her sister had apparently been close when they were younger, ITV said that Mrs O'Grady had told the programme makers that it was after the birth of Ms Clayton's child that they fell out. She also told them that she and her husband were unable to have children and that she felt resentful towards Ms Clayton for having a child who, in her opinion, she could not look after.

ITV said that Mrs O'Grady had told the programme makers that her husband had been sent to prison after going to Ms Clayton's house with a friend and having a fight with Mr Paul. ITV said that Mrs O'Grady wanted "everyone to know what they [Ms Clayton and Mr Paul] are really like" and "tell a few home truths". It was explained to her that whilst all the facts of her husband's conviction would not be discussed, reference might be made to the fact he was in prison and why. ITV said that she professed herself to be happy with this at the time.

ITV said that Mrs Clayton had told the programme makers before the recording took place that she was participating in the programme to support Mrs O'Grady. She also told them that she had not spoken to her other daughter, Ms Clayton, for several years and that this would be the last time she would ever speak to her. ITV said that Mrs Clayton made various allegations about Ms Clayton regarding drug use, violence and apparent shortcomings as a parent. ITV also said that Mrs Clayton referred to the fact that Mrs O'Grady's husband was in prison following a row with Mr Paul and Ms Clayton and that Mrs O'Grady had had to delay IVF treatment as a result.

ITV said that in these circumstances it was legitimate and reasonable for the programme makers to seek to discuss whether Mrs O'Grady's antipathy for her sister and her partner was inspired by jealousy about them having a child and that Mrs O'Grady was aware of this. ITV also said that it was legitimate and reasonable for the programme to discuss the history of the upbringing of both sisters and the problems in the parental relationship of Mrs Clayton and her daughters. ITV stated that both complainants had understood that these matters could be raised in the programme. Also, prior to the recording of the programme, ITV said that all the contributors are also asked to confirm any information that they do not want to be revealed in the programme. Neither complainant asked for any particular matters not to be disclosed.

ITV said that the first part of the programme was devoted entirely to Mrs O'Grady to allow her express her views about her sister's previous appearance on the programme. ITV said that Ms Clayton was the next contributor to appear on the programme and she countered many of Mrs O'Grady's accusations by claiming

that she was jealous of her having a child. ITV said that the programme's presenter then asked Mrs O'Grady where her husband was to which she replied that he was in prison. ITV said that Jeremy Kyle made the point that whilst she criticised Ms Clayton and Mr Paul for being poor role models, Mrs O'Grady's own partner could not be considered a role model and questioned her motivation for calling social services. ITV said that, while these were points that Mrs O'Grady did not like to hear, Jeremy Kyle's comments were entirely fair comment in the circumstances and that she was allowed a full opportunity to respond.

ITV said that when Mrs Clayton was introduced onto the stage, she immediately and aggressively confronted Ms Clayton and accused her of threatening behaviour towards another member of the family. ITV said that Jeremy Kyle gave Mrs Clayton an opportunity to explain her animosity towards her daughter, which she did, including her admission that she favoured Mrs O'Grady over Ms Clayton. ITV said that Jeremy Kyle took her to task for this in a robust fashion and questioned whether in the circumstances she was entitled to pass judgement on Ms Clayton and Mr Paul's parenting. ITV said that this was fair and justifiable in the circumstances and did not exceed the forthright manner that viewers and participants are familiar with and expect from Jeremy Kyle.

ITV said that Mrs O'Grady and Mrs Clayton were not "treated like scum" by the programme makers nor were their rights ignored. ITV said that after the recording of the programme, Mrs O'Grady had been unhappy with the filming as she felt that Jeremy Kyle had taken sides with Ms Clayton and Mr Paul, but that she did not engage in discussion with the production team about this. At no point did she or Mrs Clayton say that they wished to withdraw their consent. ITV said that Mrs O'Grady was asked by the programme makers if she wanted any further statements to be included in the programme in a graphic overlay to supplement the answers she had given to Jeremy Kyle, but she declined the offer.

ITV said that appearing on *The Jeremy Kyle Show* could be an emotional experience for any contributor and accepted that the complainants were not happy after appearing on stage. However, ITV said that it was confident that both Mrs O'Grady and Mrs Clayton were treated professionally and with due respect throughout the production process. ITV said that Mrs O'Grady and Mrs Clayton were fully informed of the nature and purpose of the programme and the issues that would be explored. ITV said that they were given an adequate opportunity to put forward their own position and to answer criticisms made about them. ITV said that Jeremy Kyle made efforts to ensure they were able to state their side of the story and that his treatment of them was fair.

### *Privacy*

- b) In relation to Mrs O'Grady's and Mrs Clayton's complaint that their privacy was unwarrantably infringed, ITV reiterated its response in head a) above. It denied that they withdrew their consent or that the programme makers ignored this withdrawal.
- c) In relation to the complaint that Mr O'Grady's privacy was unwarrantably infringed, ITV said it did not require Mr O'Grady's consent to refer to him in the programme in these circumstances. ITV said that the fact of his conviction and imprisonment for a serious criminal offence was a matter of public record. Therefore, as a convicted criminal, Mr O'Grady had no reasonable expectation of privacy in this regard. ITV maintained therefore that the programme did not infringe his privacy.

Insofar as the programme referred to Mr O'Grady in relation to his family life, ITV said that this was an inevitable consequence of his wife contacting the programme and seeking to appear to discuss her relationship with her sister and make serious allegations about her. ITV said that Mrs O'Grady had not asked the programme makers not to refer to her husband's conviction. The programme had referred to Mr O'Grady only insofar as it was strictly relevant to the family issues under discussion, namely that he had been imprisoned for his part in an assault on Mr Paul. ITV said therefore that the references made to him did not of themselves infringe his privacy.

## **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 unfair treatment in programmes included in such services and unwarrantable infringement of privacy in the broadcast and in the making of programmes included 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. This case was considered by Ofcom's Executive Fairness Group. Ofcom considered the complaint and the broadcaster's response, together with supporting material and a recordings and transcripts of the programme as broadcast and the unedited footage taken at the scene of the accident. In its considerations, Ofcom took account of Ofcom's Broadcasting Code ("the Code").

### *Unfair treatment*

- a) Ofcom considered Mrs O'Grady's complaint that she and her mother were treated unfairly in the programme in that their contribution was included in the programme despite them having withdrawn their consent. In considering this head of complaint, Ofcom considered whether the programme makers were fair in their dealings with Mrs O'Grady and Mrs Clayton as potential contributors to the programme (as outlined in Practice 7.2 of the Code). In particular, Ofcom considered whether Mrs O'Grady and Mrs Clayton gave their "informed consent" to participate in the programme (as outlined in Practice 7.3 of the Code).

Practice 7.3 of the Code sets out that in order for potential contributors to a programme to be able to make an informed decision about whether to take part, they should be given sufficient information about: the programme's nature and purpose; their likely contribution; any changes to the programme that might affect their decision to contribute; and the contractual rights and obligations of both parties.

Ofcom acknowledged that Mrs O'Grady and Mrs Clayton said that they had withdrawn their consent to appear in the programme. Ofcom also noted that no consent form signed by either Mrs O'Grady or Mrs Clayton had been provided to it. However, Ofcom takes the view that consent does not rest on the signing of a consent or release form. Rather, Ofcom assessed the type and degree of information available to the complainants when consenting to participate. Having assessed this information Ofcom considered whether it was reasonable for the programme makers to have believed that the consent provided by the

complainants was truly informed consent. In considering this Ofcom took account of all relevant factors including, for example, whether or not Mrs O'Grady and Mrs Clayton had been active and willing participants throughout the filming process and whether any significant change in circumstances subsequently arose which would have affected their original consent.

Ofcom first considered the information that was available to Mrs O'Grady and Mrs Clayton about the nature and likely content of the programme and their likely contribution in advance of participating in the programme. Ofcom took the view that the nature and format of *The Jeremy Kyle Show* is well established (that is, it raises controversial issues for discussion and then explores those issues through discussion and debate with those participating in the programme) and that they had agreed to take part in it. Ofcom took note of ITV's statement in response to the complaint that both Mrs O'Grady and her mother had been made aware of the nature and purpose of the programme by the programme makers and that they had known that their relationship with Ms Clayton and Mr Paul that would be explored in the programme. Ofcom recognised that Mrs O'Grady and Mrs Clayton have not challenged this account.

Ofcom next considered the programme as broadcast and whether the content of the particular programme reflected the nature and purpose explained to them prior to filming. Ofcom noted that the programme included scenes of personal confrontation which involved Mrs O'Grady, Mrs Clayton and Ms Clayton and Mr Paul and including Jeremy Kyle. In particular, it noted that the contributors were shown arguing with each other about the issues that had apparently led to breakdown in the relationship between them. Mrs O'Grady, Mrs Clayton and the other contributors were given opportunities to express themselves and were asked to provide responses to the various allegations made about them. Ofcom noted that Mrs O'Grady and Mrs Clayton were shown entering into this process and that they were at the centre of the arguments that developed. Ofcom took note that both Mrs O'Grady and Mrs Clayton participated in the programme willingly and engaged with the other contributors throughout in a manner which, in Ofcom's view, demonstrated that they understood the programme's nature and format.

Ofcom considered that the programme as broadcast followed the nature and format established in previous editions of the programme. Ofcom was satisfied that Mrs O'Grady and Mrs Clayton appeared to have been fully informed about the likely nature and content of their contribution, the contribution of Ms Clayton and Mr Paul and the role of Jeremy Kyle when they consented to participate in the programme. Although Mrs O'Grady and Mrs Clayton said that they had withdrawn their consent, Ofcom considered that the broadcast of the programme was in line with the information that they were given before agreeing to take part and that no significant changes had subsequently arisen. Ofcom concluded that it was reasonable for the programme makers to have believed that the consent provided by the complainants was informed consent and that, in the absence of any significant changes to the programme or their contribution, that consent remained valid.

Ofcom therefore found that the programme as broadcast did not result in unfairness to Mrs O'Grady and Mrs Clayton.

### *Privacy*

- b) Ofcom next considered Mrs O'Grady's complaint that her privacy and that of Mrs Clayton was unwarrantably infringed in that the programme was broadcast without their consent as they had withdrawn their consent to appear in it.

Ofcom recognises that the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted? (Rule 8.1 of the Code). Ofcom also took into account Practice 8.6 of the Code which states that if a broadcast would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement is warranted.

Ofcom first considered whether or not Mrs O'Grady and Mrs Clayton had a legitimate expectation of privacy in relation to the use of the recorded footage of them that was used in the programme as broadcast. The Code explains that "legitimate expectations of privacy will vary to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and where the individual concerned is already in the public eye". Ofcom recognised that the nature of the information revealed by participants in a programme of this nature and format may be understood to be personal and sensitive and may therefore attract an expectation of privacy. As such, it is important that consent is obtained from those whose privacy may otherwise be infringed by the broadcast of material revealing private information. Ofcom noted that in this particular case, both Mrs O'Grady and Mrs Clayton said that they had withdrawn their consent. However, for the reasons already given in decision head a) above, Ofcom was satisfied that: Mrs O'Grady and her mother had understood the nature and format of the programme and the nature of their contribution to it; the consent Mrs O'Grady and her mother had given was informed; and that no significant changes had subsequently arisen which affected their consent. In these circumstances, Ofcom took the view that neither Mrs O'Grady nor Mrs Clayton had a legitimate expectation of privacy with regard to the information disclosed.

Having concluded that Mrs O'Grady and Mrs Clayton did not have a legitimate expectation of privacy in this regard, Ofcom found that their privacy was not infringed in the programme as broadcast. It was therefore not necessary for Ofcom to further consider whether any infringement of privacy was warranted or not.

- c) Ofcom considered Mrs O'Grady's complaint on behalf of her husband, Mr O'Grady who was in prison, that his privacy was unwarrantably infringed in the broadcast of the programme in that reference was made to him without his consent.

In considering this complaint, Ofcom had regard to Rule 8.1 (set out above). The Code explains that "legitimate expectations of privacy will vary to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and where the individual concerned is already in the public eye".

Ofcom considered whether Mr O'Grady had a legitimate expectation of privacy in respect of the information about him that was disclosed in the programme. Ofcom noted from watching the programme and reading a transcript of it that it was his

wife, Mrs O'Grady, who disclosed that he was in prison. Ofcom took note of the following exchange between Jeremy Kyle and Mrs O'Grady in the programme:

Jeremy Kyle: *"Where's your partner love?"*

Mrs O'Grady: *In prison.*

Jeremy Kyle: *Why is your partner in prison for five years?"*

Mrs O'Grady: *He went to her [Ms Clayton] house to try and sort things out."*

Ofcom also took note of the following comments made by Ms Clayton about her sister and Mr O'Grady:

*"When she found out I was pregnant 'you ain't going to cope, you're living in a hostel, you can't bring up a baby in a hostel, me and James will look after it'".*

Ofcom noted that Mr O'Grady was only referred to by his first name "James" once during the programme and that the personal information disclosed about him was limited to a reference to him serving a five year prison sentence, which in Mrs O'Grady's view was imposed for going to Ms Clayton's and Mr Paul's house to "sort things out". Ofcom also noted that the reason why Mr O'Grady was in prison was central to the subject matter of the programme which was the difficulties in the relationship that existed between Mrs O'Grady, her sister and her mother.

Ofcom recognised that information was disclosed about Mr O'Grady of a personal nature. However, Ofcom considered that any expectation of privacy was considerably diminished by the fact that the information disclosed was limited to the circumstances relating to him serving a five year prison sentence which is a matter of public record. Taking these all factors into account, Ofcom was satisfied that Mr O'Grady did not have a legitimate expectation of privacy in the disclosure of this information.

Having concluded that Mr O'Grady did not have a legitimate expectation of privacy in this regard, Ofcom found that his privacy was not infringed in the programme as broadcast. It was therefore not necessary for Ofcom to further consider whether any infringement of privacy was warranted or not.

**Accordingly Ofcom has not upheld Mrs O'Grady's and Mrs Clayton's complaint of unfair treatment and unwarranted infringement of privacy in the broadcast of the programme. Ofcom also has not upheld Mr O'Grady's complaint of unwarranted infringement of privacy in the broadcast of the programme.**

## Not Upheld

### Complaint by Mrs Jane Price

*The Jeremy Kyle Show, ITV1, 18 June 2008*

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**Summary:** Ofcom has not upheld this complaint made by Mrs Jane Price of unfair treatment in the programme as broadcast.

On 18 June 2007, ITV1 broadcast an edition of *The Jeremy Kyle Show* which included an item entitled “I converted to Islam...now my mum has disowned me” which focused on the relationship between the complainant and her daughter, Shanzay. Both Mrs Price and her daughter, along with other family members, took part in a studio discussion which explored the difficulties in their relationship.

Mrs Price complained to Ofcom that she was portrayed unfairly in the programme as a “racist, bad grandmother and as someone who took illegal drugs”. She also complained that she had withdrawn her consent to appear in the programme.

In summary, Ofcom found the following:

- Ofcom considered that the programme fairly put Shanzay’s allegation to Mrs Price (that the reason for her mother disowning her was racially motivated); gave all the participants, including Mrs Price, the opportunity to discuss this issue fully; and that viewers would have been left to decide for themselves whether the allegation was founded or not. Further, Ofcom found that the programme fairly represented both Shanzay’s allegation that her mother did not like her grandson and her mother’s response to it. Finally, there was no suggestion made in the programme Mrs Price took illegal drugs. Ofcom concluded that Mrs Price was not unfairly portrayed in the programme.
- Ofcom considered that Mrs Price was properly informed about the nature of the programme and provided informed consent for her participation. Ofcom also noted Mrs Price’s active engagement with the programme making process and that the nature of the programme did not significantly change in a manner which could have affected her consent to participate. Ofcom therefore found that she was not treated unfairly.

### Introduction

On 18 June 2008, ITV1 broadcast an edition of *The Jeremy Kyle Show* that included an item entitled “*I converted to Islam...now my mum has disowned me*” which focused on the relationship between Mrs Jane Price, the complainant, and her daughter, Shanzay.

The programme’s presenter, Jeremy Kyle, introduced this part of the programme as follows:

*“Now my first guest, Shanzay, today says that she’s never had a close bond with her mum Jane but claims that their relationship collapsed even further when she met and married her Muslim husband. Since then, her whole family have turned against her and Shanzay says that her and her husband have been victims of vile racist abuse from her mother in particular.”*

Both Mrs Price and her daughter took part in a heated studio discussion which explored the difficulties in their relationship. In particular, the discussion focused on the tension that had arisen following Mrs Price's daughter's conversion to Islam and her marriage to a Muslim man, Haroon, who also appeared on the programme. During the programme, Shanzay and Mrs Price made a number of accusations about each other and Haroon. In particular, Mrs Price accused Haroon of being a drug abuser, while Shanzay and Haroon accused Mrs Price of being racist towards Haroon and disliking her grandson because "*he looked like Haroon*". One of Mrs Prices' sons and her sister also appeared on the programme.

Mrs Price complained to Ofcom that she was treated unfairly in the programme as broadcast.

## **The Complaint**

### **Mrs Price's case**

In summary, Mrs Price complained that she was treated unfairly in the programme in that:

- a) She was portrayed unfairly as:
  - i) a racist;
  - ii) a bad grandmother; and
  - iii) as someone who took drugs. Mrs Price said that during the programme the presenter, Jeremy Kyle, told her to "*look in the mirror*". Mrs Price said that this statement implied that she took "hard", that is illegal, drugs when the only drugs she took were prescription drugs.
- b) She withdrew her consent to appearing in the programme. Mrs Price said that she had indicated her intention to the programme makers to withdraw her consent by tearing up the signed contracts. However, despite this her contribution was included in the programme.

### **ITV's case**

In summary, ITV responded to Mrs Price's complaint as follows:

- a) It did not accept that Mrs Price was unfairly portrayed in the programme and responded to the complaint as follows:
  - i) In response to the complaint that she was portrayed as a racist, ITV said that a central allegation made by Shanzay in the programme was that her mother's motive for disowning her was racial prejudice. ITV said that while the title of this part of the programme ("*I converted to Islam and now my mum's disowned me*") fairly reflected what the discussion in the studio was about, the programme did not state as a fact that Mrs Price had disowned her daughter because of her conversion to Islam.

ITV said that Mrs Price had known the nature and purpose of the programme and that her daughter wished to talk about her mother's views on her conversion to Islam, her Muslim husband and on race. ITV said that it was fair for Jeremy Kyle to have asked Mrs Price if the motive for disowning her daughter had been racial. In a research discussion with the production team prior to the filming of the programme, ITV said that Mrs Price had shared her views that: she was "disgusted" that her daughter had

married Haroon; Shanzay “should stick to her own colour”; and, believed that her dressing like a Muslim was wrong because “a white girl should dress like a white girl”. ITV said that it was therefore reasonable for Jeremy Kyle to ask Mrs Price whether her attitude towards her daughter and her marriage stemmed from racial prejudice. ITV said that when asked by Jeremy Kyle during the programme whether she had used racist terms to describe Haroon, Mrs Price denied that she had done so and said that she used the term “*Muslim*”.

ITV said that Mrs Price was given a full opportunity to respond to these allegations, which she duly did, explaining that she did not like Shanzay because she had been harassed by her. She also made it very clear that she did not like Haroon because she thought he was arrogant, was a bad influence on Shanzay and that he took drugs. ITV said that Mrs Price was shown to say on the programme that prior to her relationship with Haroon, Shanzay had *been “going with a nice lad. He was Asian. He was very nice”*.

ITV said that the programme’s treatment of the issue of whether or not Mrs Price was a racist remained duly balanced. Mrs Price was never called a racist by the presenter and Shanzay’s allegations were always described as being her own and were put to Mrs Price for response.

- ii) ITV said that Mrs Price was not portrayed unfairly as a bad grandmother. It said that Mrs Price had known that the programme would deal with her daughter’s allegations relating to her grandchildren. ITV said that given the allegations being made about Mrs Price, it was entirely fair for Jeremy Kyle to ask her whether she was a bad grandmother and it was reasonable for him to express shock at some of her answers, for example Mrs Price’s admission that she did not like her grandson because he looked like Haroon.

ITV said that the allegations made about Mrs Price’s role as a grandmother were put to her and that she was given an opportunity to respond to them, which she did. She said that she had been prevented from seeing her grandchildren, but that she had bought them Christmas and other presents. ITV said that Mrs Price had denied on the programme that she had reported Shanzay and Haroon to social services and said that she had agreed that they were good parents. ITV also said that a caption on screen was shown which stated “*Jane denies she was rude to the children*”, that is her grandchildren.

ITV said that although Jeremy Kyle did comment negatively on some of Mrs Price’s responses, his remarks did not exceed the expectations of the audience or participants who expect him to be plain speaking when giving his views.

- iii) In response to Mrs Price’s complaint that she was portrayed as some one who took “hard” drugs, ITV said that it did not accept that Jeremy Kyle’s comment “*look in the mirror*”, in the context it was made, could have been understood as meaning that she took illegal drugs. The comment was made immediately before the end of the first part of the programme and after Mrs Price had accused Haroon of being a “*pill popper*”. ITV said that the comment suggested that Mrs Price should pause for thought before making such allegations about her son-in-law. A number of allegations about other family members regarding drug abuse were made during the recording of

the programme but were removed from the broadcast programme as they could not be verified. ITV said that Jeremy Kyle's comment, therefore, suggested to Mrs Price (and to the viewers) that she may be hypocritical for criticising Haroon given her own shortcomings as a parent and the hostility she had exhibited to Shanzay and Haroon. The programme made no explicit allegation that Mrs Price or any member of her family took drugs. ITV said that the comment "*look in the mirror*" would not have adversely or unfairly affected viewers' opinions of Mrs Price, given her other statements and in the context of the programme as a whole.

- b) In response to Mrs Price's complaint that footage of her was included in the programme despite her withdrawing her consent, ITV said that she had been made aware of the nature and purpose of the programme and the areas of questioning it would explore before she agreed to take part. ITV said that Mrs Price gave informed consent to take part in the programme in the full knowledge that what she had discussed with the production team would be conveyed to Jeremy Kyle and might be referred to in the programme.

ITV said that Mrs Price's sister tore up her own and Mrs Price's signed consent forms after the recording on 30 May 2008. However, ITV said that it did not believe that this amounted to a valid withdrawal of Mrs Price's consent that required her contribution to be excluded from the programme. It said that the consent form evidenced that she had given consent, but it was not a precondition to broadcast. ITV said that nothing the programme makers did justified the subsequent cancelling or retraction of her informed consent.

## 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 unfair treatment in programmes included 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. This case was considered by Ofcom's Executive Fairness Group. Ofcom considered the complaint and the broadcaster's response, together with supporting material and a recording and transcript of the programme as broadcast. In its considerations, Ofcom took account of Ofcom's Broadcasting Code ("the Code").

- a) Ofcom first considered Mrs Price's complaint that she was unfairly portrayed in the programme. In making a decision on this head of complaint, Ofcom referred individually to each of the three allegations specified by Mrs Price in her complaint, namely that she was portrayed as a racist; a bad grandmother and a taker of "hard" drugs. In relation to each of these allegations and looking at the programme overall, Ofcom took particular account of whether the programme makers' actions were consistent with the obligation to avoid unjust or unfair treatment of individuals in programmes (as set out in Rule 7.1 of the Code). It also considered whether the way in which the broadcaster edited any of Mrs Price's contributions resulted in those contributions having been represented unfairly (as set out in Practice 7.6). It also considered whether the portrayal of Mrs Price was consistent with the broadcaster's obligation to ensure that material facts had not been presented in a way which was unfair (as outlined in Practice

7.9). The consideration of each of these allegations informed Ofcom's overall decision of this head of complaint.

*Portrayal as a "racist"*

- i) Ofcom noted that the particular part of the programme that featured Mrs Price was entitled "*I converted to Islam...now my mum has disowned me*" which summed up the central allegation made by her daughter Shanzay. In Ofcom's view, the programme's presenter, Jeremy Kyle, had made it clear that it was Shanzay who was making this allegation when he asked her "*...your mother who you describe as racist has disowned you?*". Further into the programme, Jeremy Kyle said:

*"Now before the break we were talking to Shanzay who says that her mum has been racially abusing her since she married her husband and converted to Islam".*

Ofcom considered that Jeremy Kyle's comments made it clear to viewers that the allegation that Mrs Price was a racially prejudiced was made by her daughter and that it was not an allegation being levelled against her by the programme itself; rather it was explored through the robust questioning of the programme's presenter. Ofcom took the view that this questioning was in keeping with the established format of the programme in which controversial allegations are raised and then explored by the presenter and the participants.

Ofcom also noted that during the discussions in the programme between Shanzay, Mrs Price and Jeremy Kyle, Mrs Price had the opportunity to respond to her daughter's allegations and that she did so. Ofcom took note of the following exchange which, in Ofcom view, made clear Mrs Price's positive response to her daughter previously having an Asian boyfriend:

Jeremy Kyle: *"What do you have against Haroon?"*  
Mrs Price: *I don't like him...*  
Jeremy Kyle: *Why?...*  
Mrs Price: *'Cos he's an arrogant, arrogant...*  
Jeremy Kyle: *Is it his colour?...*  
Mrs Price: *No, its not his colour.*  
Jeremy Kyle: *Is it his religion?*  
Mrs Price: *She [Shanzay] was going with a nice lad, right, he was Asian, he was very, very nice...".*

Ofcom considered that from the exchanges between Mrs Price, Shanzay and Jeremy Kyle that it was clear that the reasons Mrs Price disliked Haroon and her daughter's marriage to him was the fact that she believed him to be "*arrogant*" and a drug abuser (see iii) below) and not because of his race or being a Muslim. The programme represented Shanzay's allegation that her mother was racist and her mother's denial of that allegation. Ofcom was satisfied that at no point during the programme did Jeremy Kyle intimate that he too believed that Mrs Price was racist, or suggested either implicitly or explicitly that Shanzay's allegation was a fact. Ofcom concluded that the programme did nothing but put Shanzay's allegation to Mrs Price and that viewers would have been left to decide for themselves whether the allegation was founded or not. Ofcom therefore found no unfairness to Mrs Price in this regard.

### *Portrayal as a “bad grandmother”*

- ii) Ofcom noted that during the general discussion about how Shanzay believed her mother treated her and her family, Jeremy Kyle asked *“How does she treat your two children, her grandchildren?”*. Shanzay responded by saying that:

*“She never, she’s only seen my son once and she goes to me ‘I’m not holding him cos I don’t like boys’ but it’s not, it was because he looked like Haroon, he’s the double of Haroon, that’s why she didn’t want him”.*

Ofcom noted that as the programme progressed and after Haroon had joined the other contributors on stage, Mrs Price said that *“I don’t have a grandson. ‘Cos he looks like you [Haroon]”*. Ofcom then took note of the following exchange between Jeremy Kyle and Mrs Price:

Jeremy Kyle: *“You don’t like your grandson?”*  
Mrs Price: *No, cos he looks like...*  
Jeremy Kyle: *You’ve just admitted on national television, you don’t like your grandson.*  
Mrs Price: *No.*  
Jeremy Kyle: *Cos, he’s like his father*  
Mrs Price: *Exactly.*  
Jeremy Kyle: *...if I was that grandchild I don’t think I would want this as a grandmother.”*

Ofcom considered that from the exchanges between Mrs Price, Shanzay and Jeremy Kyle it was clear that the reasons Mrs Price disliked her grandson was, by her own admission, because he looked like his father, Haroon. Ofcom considered that the programme fairly represented Shanzay’s allegation that her mother did not like her grandson and her mother’s response to it. Ofcom was satisfied that the programme fairly represented the views of Mrs Price and that the portrayal of her in the programme was not unfair to her.

### *Portrayed as a “drug taker”*

- iii) Ofcom noted that the first reference to drug taking in the programme was made by Mrs Price who alleged that Haroon was *“on ecstasy”*. During the discussion, Ofcom noted that Mrs Price also made other drug-related allegations about Haroon such as *“he sniffs poppers”* and *“he’s a pill popper, he pops ecstasy pills”*. Jeremy Kyle asked Haroon whether or not he did take drugs to which he replied *“No, I just smoke a bit of cannabis”*. Ofcom then noted the following exchange between Mrs Price and Jeremy Kyle:

Jeremy Kyle: *“What is it that you don’t like about him?”*  
Mrs Price: *Cos he’s a pill popper.*  
Jeremy Kyle: *So you don’t like the fact and I absolutely agree if he is, I would find that wrong as well, you don’t like the fact, hold on, he’s a drug taker?*  
Mrs Price: *Give him a drugs test.*  
Jeremy Kyle: *Can I ask you to do something during the break?*  
Mrs Price: *Yeah.*

Jeremy Kyle: *Can I ask you to look in the mirror?"*

Ofcom noted that this exchange followed Mrs Price's allegation that Haroon was a drug abuser and it was evident from her comments that she did not approve of drug abuse. Ofcom acknowledged that Jeremy Kyle's comment "*Can I ask you to look in the mirror*" immediately followed the discussion concerning Haroon's alleged drug abuse. However, Ofcom took the view that Jeremy Kyle's comment did not suggest that she too took illegal drugs; rather it was an invitation to Mrs Price to consider her own possible faults. Further, towards the end of the discussion between Shanzay, Mrs Price and Haroon, Jeremy Kyle addressed each of the contributors by stating:

*"Listen to me, right, there's obviously been rumour, accusation, threats, whatever, the fact is, you [indicating Shanzay] married this man, have two children, you come on today, you said you want nothing more to do with her; you come on [indicating Mrs Price] and said I've disowned her, she's with this, whether you're a racist [indicating Mrs Price], whether you're a drug taker [indicating Haroon] whether you're a wind up merchant who calls social services [indicating Shanzay's sister]..."*

Ofcom considered that it would have been clear to viewer from this final summing up of the accusations and allegations made by Mrs Price, Shanzay and Haroon and explored by the programme, that Jeremy Kyle indicated that the allegation of drug abuse was directed at Haroon and not Mrs Price. Ofcom was satisfied therefore that the programme fairly represented the discussion that took place between the contributors and that Mrs Price was not portrayed unfairly in this regard.

Having considered that the programme did not portray Mrs Price unfairly in relation to points i), ii) and iii) above, Ofcom concluded that the programme as broadcast was not unfair to Mrs Price with respect to Head a) of her complaint.

- b) Ofcom then considered Mrs Price's complaint that she was treated unfairly in the programme in that her contribution was included in the programme despite her having withdrawn her consent. In considering this head of complaint, Ofcom considered whether the programme makers were fair in their dealings with Mrs Price as a potential contributor to the programme (as outlined in Practice 7.2 of the Code). In particular, Ofcom considered whether Mrs Price gave her 'informed consent' to participate in the programme (as outlined in Practice 7.3 of the Code).

Practice 7.3 of the Code sets out that in order for potential contributors to a programme to be able to make an informed decision about whether to take part, they should be given sufficient information about: the programme's nature and purpose; their likely contribution; any changes to the programme that might affect their decision to contribute; and the contractual rights and obligations of both parties. Ofcom acknowledged that Mrs Price tore up her consent form. However, it is important to note that consent does not rest on the signing of a consent or release form. Rather, Ofcom assessed the type and degree of information available to Mrs Price when consenting to participate. Having assessed this information Ofcom considered whether it was reasonable for the programme makers to have believed that the consent provided by Mrs Price was truly informed consent. In considering this Ofcom took account of all relevant factors including, for example, whether or not Mrs Price had been an active and willing participant throughout the filming process and whether any significant change in

circumstances subsequently arose which would have affected her original consent.

Ofcom first considered the information that was available to Mrs Price about the nature, likely content of the programme and her likely contribution in advance of agreeing to participate. Ofcom took the view that the nature and format of *The Jeremy Kyle Show* is well established (that is, it raises controversial issues for discussion and then explores those issues with those participating in the programme) and that Mrs Price had agreed to take part in it. Ofcom took note of ITV's statement in response to the complaint that Mrs Price had been made aware of the nature and purpose of the programme by the programme makers and that she had known the areas of her relationship with her daughter that would be explored in the programme. Ofcom recognised that Mrs Price has not challenged this account. Also Ofcom noted that the consent form signed by Mrs Price on the day the programme was recorded has not been provided to Ofcom due to it being torn up by Mrs Price's sister after filming.

Ofcom next considered the programme as broadcast and whether the content of the programme reflected the nature and purpose known by her prior to filming. Ofcom noted that the programme included scenes of personal confrontation which involved Mrs Price and other contributors, including Jeremy Kyle. In particular, it noted that the contributors were shown shouting at each other and arguing about the issues that had apparently led to breakdown in the relationship between Mrs Price and her daughter. Mrs Price was specifically asked to respond to the allegation made by her daughter that the reason for disowning her daughter was racially motivated and she was shown actively and willingly engaged in that discussion (see quotes from the programme in head a) above). Ofcom took note that Mrs Price participated in the programme and engaged with the other contributors throughout in a manner which, in Ofcom's view, demonstrated that she understood its nature and format.

Ofcom considered that the programme as broadcast followed the nature and format established in previous editions of the programme. Ofcom was satisfied that Mrs Price appeared to have been fully informed about the likely nature and content of her contribution and the contribution of her daughter and her husband and the role of Jeremy Kyle when she consented to participate. Ofcom considered that the broadcast of the programme was in line with the information she was given before agreeing to take part and that no significant changes had subsequently arisen. Ofcom concluded that it was reasonable for the programme makers to have believed that the consent provided by Mrs Price was informed consent and that, in the absence of any significant changes to the programme or her contribution, that consent remained valid.

In light of the above factors, Ofcom does not consider that Mrs Price was misled about the nature of the programme nor that its nature significantly changed in a manner which would have affected her consent to participate. Ofcom therefore found that the programme as broadcast did not result in unfairness to Mrs Price.

**Accordingly, Ofcom has not upheld Mrs Price's complaint of unfair treatment in the broadcast of the programme.**

## Other Programmes Not in Breach/Resolved

Up to 17 February 2009

Programme	Transmission Date	Channel	Category	Number of Complaints
"Booby Song"	09/01/2009	Real Radio Scotland	Generally Accepted Standards	1
10 Years Younger	05/02/2009	Channel 4	Generally Accepted Standards	1
8 Out of 10 Cats Christmas Special	26/12/2008	Channel 4	Generally Accepted Standards	1
90210	01/02/2009	E4	Sex/Nudity	1
Absolute Radio	23/01/2009	Absolute Radio	Generally Accepted Standards	1
Age of Love	01/02/2009	E4	Generally Accepted Standards	1
All Star Mr & Mrs Christmas Special	20/12/2008	ITV1	Sex/Nudity	1
Animal Park	05/01/2009	BBC2	Flashing images	1
BBC News	05/01/2009	BBC1	Violence	1
Bad Santa (trailer)	06/12/2008	Five	Generally Accepted Standards	1
Beehive	10/12/2008	E4	Religious Offence	1
Big Drive Home	29/08/2008	Essex FM	Generally Accepted Standards	1
Celebrity Big Brother	10/01/2009	Channel 4	Generally Accepted Standards	1
Celebrity Big Brother	05/01/2009	Channel 4	Due Impartiality/Bias	2
Celebrity Big Brother's Big Mouth	12/01/2009	E4	Generally Accepted Standards	1
Celebrity Big Brother: Live	03/01/2009	Channel 4	Offensive Language	1
Celebrity Big Brother: Live Launch	02/01/2009	Channel 4	Generally Accepted Standards	2
Celebrity Come Dine With Me	30/12/2008	Channel 4	Generally Accepted Standards	1
Celebrity Come Dine With Me	14/01/2009	Channel 4	Offensive Language	1
Celebrity Come Dine With Me (trailer)	09/01/2009	Channel 4	Offensive Language	1
Channel 4 News	08/01/2009	Channel 4	Inaccuracy/Misleading	2
Channel 4 News	22/12/2008	Channel 4	Generally Accepted Standards	1
Channel 4 News	07/01/2009	Channel 4	Generally Accepted Standards	1
Channel 4 News	29/12/2008	Channel 4	Violence	3
Channel 4 News	05/01/2009	Channel 4	Violence	1
Channel 4 News	08/01/2009	Channel 4	Violence	1
Christianity: A History	10/02/2009	Channel 4	Generally Accepted Standards	1
Christmas at River Cottage	21/12/2008	Channel 4	Animal Welfare	1
Christmas at River Cottage	21/12/2008	Channel 4	Offensive Language	1
Claire Sweeney - My Big Fat Diet	06/01/2009	ITV1	Harm/Food	1
Come Dine With Me	11/02/2009	Channel 4	Religious Offence	1
Come Dine With Me Extra Portions	05/01/2009	Channel 4	Offensive Language	1

Come Dine With Me Extra Portions	08/01/2009	Channel 4	Generally Accepted Standards	1
Continuity	24/01/2009	Fiver	Offensive Language	1
Coronation Street	24/12/2008	ITV1	Violence	8
Coronation Street	09/02/2009	ITV1	Generally Accepted Standards	1
Coronation Street	05/01/2009	ITV1	Offensive Language	1
Coronation Street	24/12/2008	ITV1	Commercial References	1
Coronation Street	19/12/2008	ITV1	Offensive Language	1
Countdown	13/01/2009	Channel 4	Generally Accepted Standards	1
Country House Rescue	09/02/2009	More4	Offensive Language	1
Country House Rescue	30/12/2008	Channel 4	Generally Accepted Standards	3
Crimewatch	27/01/2009	BBC1	Offensive Language	1
Crimewatch Solved	06/01/2009	BBC1	Generally Accepted Standards	1
Dancing on Ice	08/02/2009	ITV1	Sex/Nudity	1
Demons	03/01/2009	ITV1	Scheduling	27
Demons (trailer)	10/01/2009	ITV1	Generally Accepted Standards	1
Disney sponsorship on LIVING	06/12/2008	Living	Sponsorship	1
Dispatches: The Hidden World of Lap Dancing	06/10/2008	Channel 4	Due Impartiality/Bias	3
Domino Day 2008	26/12/2008	Five	Generally Accepted Standards	1
Drive	23/12/2008	LBC 97.3FM	Offensive Language	1
Eastenders	24/12/2008	BBC1	Generally Accepted Standards	1
Eastenders	06/01/2009	BBC1	Generally Accepted Standards	1
Emmerdale	02/01/2009	ITV1	Generally Accepted Standards	1
Emmerdale	25/12/2008	ITV1	Violence	1
Emmerdale	05/01/2009	ITV1	Crime (incite/encourage)	1
Eurovision: Your Country Needs You	31/01/2009	BBC1	Use of Premium Rate Numbers	3
Fifth Gear	05/01/2009	Five	Crime (incite/encourage)	1
Five News	18/12/2008	Five	Inaccuracy/Misleading	2
Fizz Music	16/10/2008	Fizz TV	Crime (incite/encourage)	1
Foyle's War	06/01/2009	ITV1	Violence	3
Friday Night With Jonathan Ross	06/02/2009	BBC1	Generally Accepted Standards	1
Geoff Lloyd's Hometown Show	13/01/2009	Absolute Radio	Generally Accepted Standards	1
George of the Jungle	05/01/2009	Nick Toons	Offensive Language	1
Golf	20/12/2008	Sky Sports 3	Generally Accepted Standards	1
Gordon Ramsay: Christmas Cookalong Live	12/12/2008	Channel 4	Generally Accepted Standards	1
Grand Designs	11/02/2009	Channel 4	Generally Accepted Standards	1
Grumpy Old Men	05/01/2009	BBC2	Generally Accepted Standards	1
Harry Hill's TV Burp	17/01/2009	ITV1	Generally Accepted Standards	5

Harry Hill's TV Burp Review of the Year	26/12/2008	ITV1	Generally Accepted Standards	3
Hollyoaks	08/01/2009	E4	Sex/Nudity	1
Hollyoaks	03/02/2009	E4	Sex/Nudity	2
Hollyoaks	04/02/2009	Channel 4	Sex/Nudity	1
Horrid Henry	n/a	CITV	Generally Accepted Standards	1
I'm A Celebrity, Get Me Out Of Here	16/11/2008	ITV2	Religious Offence	1
ITV News	29/12/2008	ITV1	Due Impartiality/Bias	1
ITV News	10/01/2009	ITV1	Generally Accepted Standards	1
ITV News	22/12/2008	ITV1	Inaccuracy/Misleading	1
ITV News	04/02/2009	ITV1	Offensive Language	1
In the Cut	24/01/2009	Film 4	Sex/Nudity	1
Jane Doe: Ties That Bind	07/01/2009	Five	Violence	1
Jeff Randall Live	05/02/2009	Sky News	Generally Accepted Standards	1
Jimmy Carrol on Xmas Day (trailer)	21/12/2008	BBC Radio Sheffield	Generally Accepted Standards	1
KNTV Sex	27/11/2008	Channel 4	Sex/Nudity	23
Ken Livingstone	03/01/2009	LBC 97.3	Generally Accepted Standards	1
Kick Off with Danny Kelly & Stan Collymore	24/12/2008	talkSPORT	Generally Accepted Standards	1
King Kong	27/12/2008	ITV2	Violence	1
LK Today	16/12/2008	ITV1	Sex/Nudity	1
Lifeproof TV	24/11/2008	Channel 4	Sex/Nudity	2
Live FA Cup Football	03/01/2009	ITV1	Generally Accepted Standards	1
Loose Women	18/12/2008	ITV1	Sex/Nudity	1
Louis Theroux's Weird Weekends	01/02/2009	Dave	Generally Accepted Standards	1
Michael Ball's Sunday Brunch	14/12/2008	BBC Radio 2	Generally Accepted Standards	1
Midsomer Murders	06/02/2009	ITV1	Offensive Language	1
Minder	11/02/2009	Five	Dangerous Behaviour	1
Morning Extra	04/02/2009	BBC Radio Scotland	Offensive Language	1
Moses Jones	02/02/2009	BBC2	Generally Accepted Standards	1
Most Haunted Live (trailer)	n/a	Living	Exorcism/Occult/Paranormal	1
Never Mind the Buzzcocks	28/12/2008	BBC2	Generally Accepted Standards	1
New You've Been Framed	07/02/2009	ITV1	Dangerous Behaviour	1
Not Going Out	06/02/2009	BBC1	Offensive Language	1
Not Going Out	30/01/2009	BBC1	Generally Accepted Standards	1
One Minute Wonders	02/02/2009	BBC1	Generally Accepted Standards	1
Only An Excuse	31/12/2008	BBC1 Scotland	Generally Accepted Standards	1
Outnumbered	13/12/2008	BBC1	Generally Accepted Standards	1
Oz and James Drink to Britain	04/02/2009	BBC2	Offensive Language	1
Panorama	26/01/2009	BBC1	Religious Offence	1
Panorama	12/01/2009	BBC1	Sex/Nudity	1

Paris Hilton's British Best Friend	31/01/2009	ITV2	Generally Accepted Standards	2
Paul Merton in India	22/10/2008	Five	Due Impartiality/Bias	1
Plus One	09/01/2009	Channel 4	Generally Accepted Standards	1
Programme trailers	02/01/2009	Five	Crime (incite/encourage)	1
QATAR Airways Sponsorship of Sky Weather	n/a	Sky News	Inaccuracy/Misleading	1
QI	09/01/2009	BBC1	Sex/Nudity	1
RDS Traffic Updates	29/01/2009	The Eagle 96.4 FM	Other	1
Racing From Chepstow	27/12/2008	BBC1	Generally Accepted Standards	1
Radio 1 Chart Show	07/12/2008	BBC Radio 1	Generally Accepted Standards	1
Ramsay's Great British Nightmare	30/01/2009	Channel 4	Generally Accepted Standards	1
Right to Die?	10/12/2008	Sky Real Lives	Generally Accepted Standards	6
Right to Die?	10/12/2008	Sky Real Lives	Due Impartiality/Bias	1
Right to Die?	10/12/2008	Sky Real Lives	Suicide/Self Harm	1
Road Wars	07/01/2009	Sky Three	Sex/Nudity	1
Russell Brand's Christmas Ponderland	21/12/2008	Channel 4	Religious Offence	1
Sara Cox	06/01/2009	BBC Radio 1	Sex/Nudity	1
Sex Station	22/12/2008	Lucky Star	Sex/Nudity	1
Sex, Drugs and Rock 'n' Roll (trailer)	14/12/2008	Five	Sex/Nudity	1
Sexcetera	23/10/2008	Virgin 1	Sex/Nudity	1
Shameless	10/02/2009	Channel 4	Generally Accepted Standards	1
Shameless	03/02/2009	Channel 4	Substance Abuse	1
Shameless	10/02/2009	Channel 4	Dangerous Behaviour	1
Sky News	11/01/2009	Sky News	Generally Accepted Standards	1
St Helier sponsorship of The Championship	07/12/2008	ITV1	Sponsorship	1
Stephen Nolan	14/11/2008	BBC Radio Ulster	Generally Accepted Standards	1
T4	08/02/2009	Channel 4	Offensive Language	1
Taggart	07/01/2009	ITV1	Violence	3
Taggart	15/12/2008	ITV1	Violence	1
The Alan Brazil Sports Breakfast	n/a	talkSPORT	Commercial References	1
The Andrew Marr Show	11/01/2009	BBC1	Generally Accepted Standards	1
The Best of Benny Hill	26/12/2008	ITV3	Generally Accepted Standards	1
The Bill	07/01/2009	ITV1	Generally Accepted Standards	1
The Charlotte Church Nutcracking Christmas Special	21/12/2008	Channel 4	Religious Offence	3
The Charlotte Church Nutcracking Christmas Special	21/12/2008	Channel 4	Generally Accepted Standards	1

The Charlotte Church Nutcracking Christmas Special	21/12/2008	Channel 4	Sex/Nudity	1
The Christian O'Connell Breakfast Show	22/01/2009	Absolute Radio	Generally Accepted Standards	1
The Graham Norton Show	18/12/2008	BBC2	Generally Accepted Standards	2
The Hills	24/12/2008	MTV1	Animal Welfare	1
The Home Show	05/11/2008	Channel 4	Inaccuracy/Misleading	1
The Hunt For Britain's Tightest Person	09/01/2009	Channel 4	Generally Accepted Standards	1
The IT Crowd	26/12/2008	Channel 4	Generally Accepted Standards	1
The Janice Dickinson Modelling Agency	06/01/2009	TMF	Generally Accepted Standards	1
The King of Queens	09/12/2008	Paramount	Generally Accepted Standards	1
The London Programme Special	29/12/2008	ITV1	Inaccuracy/Misleading	1
The Morning Line	27/12/2008	Channel 4	Generally Accepted Standards	1
The Most Annoying People of the Year 2008	29/12/2008	BBC Three	Generally Accepted Standards	20
The Nativity Decoded	25/12/2008	Channel 4	Religious Offence	6
The Professionals	07/01/2009	ITV4	Violence	1
The Royal	14/12/2008	ITV1	Generally Accepted Standards	3
The Simpsons	28/12/2008	Channel 4	Generally Accepted Standards	1
The Simpsons	30/12/2008	Channel 4	Violence	1
The Simpsons	11/01/2009	Sky One	Religious Offence	3
The Sunday Night Project	04/01/2009	Channel 4	Generally Accepted Standards	1
The Xtra Factor - The Result	06/12/2008	ITV2	Sex/Nudity	1
This Morning	08/01/2009	ITV1	Generally Accepted Standards	1
Timeshift: How to write a Mills & Boon	01/01/2009	BBC4	Generally Accepted Standards	1
Today	12/12/2008	BBC Radio 4	Sex/Nudity	3
Tommo's Tips	30/01/2009	talkSPORT	Commercial References	1
Trail and Retribution	06/02/2009	ITV1	Dangerous Behaviour	1
Trolley Dollies	07/02/2009	Living 2	Generally Accepted Standards	1
Two Brothers	30/12/2008	BBC1	Animal Welfare	1
Unreported World	02/01/2009	Channel 4	U18's in Programmes	1
Waking the Dead	06/05/2008	BBC1	Violence	1
Weakest Link	10/02/2009	BBC1	Generally Accepted Standards	1
Weakest Link	09/02/2009	BBC1	Generally Accepted Standards	1
Weakest Link Special	30/12/2008	BBC1	Sex/Nudity	1
When Stunts Go Bad	20/12/2008	ITV4	Dangerous Behaviour	1
Whitechapel	02/02/2009	ITV1	Violence	1
Willie's Perfect Chocolate Christmas	17/12/2008	Channel 4	Commercial References	1
Wives	05/02/2009	Sky Three	Generally Accepted Standards	1
Your Country Needs You	10/01/2009	BBC1	Offensive Language	2

