

Ofcom Broadcast Bulletin

**Issue number 257
30 June 2014**

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Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act².

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

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

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

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

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

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

Note to Broadcasters

Targeted monitoring exercise – short-term Restricted Licence Services ('S-RSLs')

Ofcom licenses S-RSLs, which are normally granted for coverage of special events, trial services and other special on-off projects. These licences are granted on a temporary basis (often only for a few weeks) and are only available to specific and often small geographical areas. In 2013, Ofcom issued a total of 257 S-RSL licences.

Ofcom formally notifies S-RSL broadcasters that **we are conducting a monitoring exercise of S-RSL broadcasts in July and August.**

S-RSL broadcasters are put on notice that any serious or repeated failings in this area will result in Ofcom taking further regulatory action, for example, the consideration of the imposition of statutory sanctions.

Standards cases

In Breach

Item for Save Bangladesh

Channel Nine UK, 24 to 28 January 2014, various times

Introduction

Channel Nine UK is a news and general entertainment channel broadcast in Bengali and serving a Bangladeshi audience. The licence for Channel Nine UK is held by Runners TV Limited (“Runners TV” or “the Licensee”).

A complainant drew Ofcom’s attention to what he considered to be an advertisement placed on Channel Nine UK by an organisation called Save Bangladesh, in breach of the ban on political advertising contained within the Communications Act 2003 (“the Act”).

Ofcom obtained a recording of the item, which was 25 seconds long. It contained Bengali text and a voice-over also in Bengali and we commissioned an independent translation of the item.

The item featured an image of a raised arm and fist superimposed on to a simple graphical map of Bangladesh. Bengali script along with the slogan “Save Bangladesh” written in English was displayed for the duration of the item.

As translated, the Bengali text and audio stated:

“A mass demonstration will take place to protest against extra-judicial killing, failure to provide safety of the lives and property of the people, torturing minorities and violation of human rights.

Date: 28th of January 2013. Time: 1:00 pm. Place: Parliament Square, London. Join the demonstration.

Organised by: Save Bangladesh”.

Traditional Bengali music played throughout. At the end, the opening lines of a song written by the national poet of Bangladesh, Kazi Nazrul Islam could be heard. In English these were: “*Oh the iron-gate of the prison*”.

Ofcom reviewed the material published by Save Bangladesh on its website. The website’s “Who We Are” page explained that:

“Save Bangladesh is a global campaign to bring international attention to the grave political events unfolding in Bangladesh. Events that have led to some of the worst violence in recent memory, brutal repression, and a highly polarised populace. In doing so, we hope to inspire a movement of young people to get involved and strive towards creating a better, more just, and democratic Bangladesh.”

And on the page headed “Our Campaigns”:

“It is our hope that through a concerted lobbying and social media campaign we can collectively work towards saving Bangladesh whilst providing a cohesive and prominent voice for truth and justice. Save Bangladesh has three main thrusts to its campaign:

- Social media: make your voice heard in the social media sphere
- Lobbying: challenge the system and call for change by lobbying people in power
- Education: get clued up on the issues central to Bangladesh through our background, information, articles and links.”

Further material on the website included detailed and specific references to recent political events in Bangladesh. These included:

“The current Awami League government established the ‘International Crimes Tribunal’ [ICT¹] to try people they accused of committing crimes during 1971. No Pakistanis have come before the court, nor have any ruling Awami League² leaders who supported the Pakistan-side during the war, or even those who publicly committed war crimes after the war. The only people in the dock are those belonging to the Jamaat-e-Islami and the Bangladesh National Party.”

And:

“Since the end of February 2013, at least a hundred people have been killed in Bangladesh, mostly shot dead by the police. They were protesting at the death sentence given to Allama Delwar Hussain Sayeedi, an Islamic scholar and leader of the Bangladesh Jamaat-e-Islami opposition party. He and other leaders of the Jamaat³ and the Bangladesh National Party (BNP)⁴, the main opposition, have been accused of war crimes committed during Bangladesh’s war of independence in 1971. They reject these accusations.”

Further, the following text was included on a page entitled “What next for Bangladesh?”:

“Bangladesh is in the midst of a crisis. How it emerges will determine the future social, political and religious landscape for years to come. A key step in the right direction, would be to establish a ‘Truth and Reconciliation’ Commission, akin to that formed in South Africa soon after the end of Apartheid. Those accused of war crimes should be put on trial, but one governed according to real international standards and norms, and not the politicised and impartial farce that the ICT is proving to be. Years of broken promises by successive governments that have seen little change in their leadership over the last three decades, have left the public dismayed, betrayed and demoralised. Currently democracy is seen

¹ The ICT was set up by the current Bangladeshi Government in 2010 to investigate allegations of war crimes during the 1971 war in which Bangladesh obtained independence from Pakistan.

² The Awami League is the main party in the coalition governing Bangladesh.

³ The Jamaat Party is the main Islamist party in Bangladesh, and is part of the opposition alliance in the Bangladesh Parliament.

⁴ The Bangladesh Nationalist Party is the largest opposition party in Bangladesh and is the main party in an opposition alliance, which includes the Jamaat Party.

only as a tool for various political parties to use to come to power and squander the wealth of the nation. Bangladeshis needs a clean and selfless political movement. Years of mismanagement of Bangladesh's resources and corrupt political practices have brought it to its knees. However, with a population of 160 million people and a wealth of minerals and natural resources, authentic and honest leadership could make Bangladesh a powerful nation and economy."

We sought the Licensee's comments on the terms under which the item had been included in its schedule. The Licensee informed us that the item had been transmitted without payment or other valuable consideration "simply to inform the UK based Bangladesh community of the current situation in Bangladesh".

Given the Licensee's assertions that no money was accepted for the broadcast, Ofcom concluded that the item must be regarded as programme material and was therefore subject to the Code.

Because the item consisted solely of a message from a political organisation, we considered that it raised issues warranting investigation under the following rules of the Code:

Rule 5.5: "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole."

Rule 9.2: "Broadcasters must ensure that editorial content is distinct from advertising."

We therefore sought Runners TV's views on how the item complied with these rules.

Response

Runners TV told us that the Save Bangladesh item was not transmitted in return for any payment or any other similar benefits or to promote any business, craft, trade or profession or in order to promote the supply of goods or services or for any self-promotional reasons.

The item was, the Licensee said, information to the community about the proposed event. Further, we were told that: "The announcement made it clear it was an announcement for the event. It was not part of any programme." The Licensee said that it did not believe Save Bangladesh to be affiliated with any political organisation or to have any political agenda.

As to the content of the item, Runners TV said that the announcement did not refer to any political party or political event. The Licensee said that it had not given any "editorial or personal views of the events." No reference was made to any website in the item, Runners TV said, and no views were expressed in favour of or against the aims of the event.

Given these points, the Licensee submitted that it had broken no rules and there had not been any partiality on its part.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that the special impartiality requirements set out in section 320 of the Act are complied with. This standard is contained in Section Five of the Code. Broadcasters are required to ensure that the impartiality requirements of the Act are complied with, including that due impartiality is preserved on matters of political or industrial controversy and matters relating to current public policy (see above for the specific provisions).

Ofcom also has a statutory duty under the Act to ensure that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. Articles 20 and 23 of the EU Audiovisual Media Services Directive (“the AVMS Directive”) set out strict limits on the amount and scheduling of television advertising. The AVMS Directive also requires that advertising is distinguishable from other parts of the programme service: “Television advertising...shall be readily recognisable and distinguishable from editorial content...and...shall be kept quite distinct from other parts of the programme by optical and/or acoustic and/or spatial means”. The purpose of this distinction is to prevent viewers being confused or misled about the status and purpose of the material they are watching and to protect viewers from surreptitious advertising. It also prevents editorial content from being used to circumvent the restrictions on advertising minutage.

The AVMS Directive requirements are reflected in, among other Code rules, Rule 9.2, which requires that editorial content is kept distinct from advertising.

Ofcom therefore considered the item’s compliance with Rules 5.5 and 9.2 of the Code.

Rule 5.5

This rule states:

“Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service...This may be achieved within a programme or over a series of programmes taken as a whole.”

It is not Ofcom’s role to question or investigate the validity of the political views expressed in a case like the current one, but to require the broadcaster to comply with the relevant standards in the Code. The Code does not prohibit broadcasters from discussing any particular controversial subject or including any particular point of view in a programme. To do so would be an unacceptable restriction on a broadcaster’s freedom of expression.

However, the broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression with the requirement in the Code to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy. Ofcom recognises that Section Five of the Code, which sets out how due impartiality must be preserved, acts to limit, to some extent, freedom of expression. This is because its application necessarily requires broadcasters to ensure that neither side of a debate relating to matters of political or industrial controversy and matters relating to current

public policy is unduly favoured. Therefore, while any Ofcom licensee should have the freedom to discuss any controversial subject or include particular points of view in its programming, in doing so broadcasters must always comply with the Code.

In this case, Ofcom firstly had to ascertain whether the requirements of Section Five of the Code should be applied: that is, whether the content in this case was dealing with matters of political or industrial controversy and/or matters relating to current public policy. We noted that the item was a brief statement that alerted viewers of Channel Nine UK to the existence of a forthcoming demonstration. Just because editorial content refers to political organisations or political figures does not necessarily mean that the rules in Section Five are applicable. Furthermore, in judging the applicability of Section Five in any case, Ofcom will take into account the manner in which political issues are dealt with, and how they are presented within programming.

We noted that the Licensee had argued that the announcement did not refer to any “political party or political event”, did not give any “editorial or personal views of the events” or make any reference to a website on the announcement or its content. However, in Ofcom’s view, regardless of the absence of reference to a website or to any formally constituted political party, the item, although brief, clearly touched on matters of political controversy and public policy in Bangladesh. It promoted a demonstration about allegations of: extra-judicial killing in Bangladesh; a failure to provide for the safety of the lives and property of the Bangladeshi people; and, the torturing of minorities and the violation of human rights.

We considered that these statements, in combination with the name of the organisation and style of the item, clearly implied particular viewpoints on these controversial issues. In our view, the fact that the statements were presented as standalone pieces of editorial content articulating a single policy viewpoint would have helped to increase their likely effect on viewers, namely members of the Bangladeshi community in the UK and Europe.

Given the above, Ofcom therefore considered that this content dealt with matters of political controversy and matters relating to current public policy. Rule 5.5 was therefore applicable.

In assessing whether due impartiality has been preserved, the term “due” is important. Under the Code, it means adequate or appropriate to the subject and nature of the programme. Therefore, “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Due impartiality may be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures due impartiality is maintained. The context in which programme material appears, including the particular characteristics of the programme, is important to judgments of what is duly impartial..

Ofcom considered that the item was a self-standing expression of the specific viewpoints of the Save Bangladesh organisation on particular matters of political controversy and matters relating to current public policy. The item did not contain any alternative views, which could be reasonably and adequately classed as critical or counter to those of the Save Bangladesh campaign. We noted that the Licensee had not said in its responses that it had also carried items containing opposing viewpoints, although that question was specifically put to it by Ofcom.

In any event, we doubted that items such as this one could be balanced by other items containing opposing points of view. As independent and self-standing statements that are placed in the schedule without having been commissioned by a broadcaster, it is in Ofcom's view difficult to see how such items can be taken in aggregate to be a body of programming planned over time by the broadcaster, unlike conventional, scheduled programming.

Secondly, we noted that the Save Bangladesh item contained a call to action to attend a demonstration, rather than merely offering discussion of a particular point of view. Consequently, it was our view that any such item could only be viewed as a self-standing piece intended to promote a particular political interest. By its very nature, therefore, such an item presented no opportunity for duly impartial consideration of a matter of political controversy.

In reaching our decision, we took account of the Licensee's explanation that the item was intended to impart 'information to the community of the proposed event'. Ofcom recognises that broadcasters serving particular communities will want to provide content that presents issues of topical interest to their target audience. In Ofcom's view, however, this cannot justify the inclusion of inherently partial items concerning matters of political controversy or matters relating to public policy.

Given the above, Ofcom therefore concluded that the item complained of breached Rule 5.5.

Rule 9.2

This rule states:

"Broadcasters must ensure that editorial content is distinct from advertising."

The item was a self-standing message, of short duration, and containing a call to action, which appeared to have been produced by or on behalf of the Save Bangladesh organisation. There were no conventional programme elements present, for example, a presenter, a studio, programme titles, and so on. As such, it strongly resembled an advertisement and was, in Ofcom's view, very much more likely to be perceived by viewers as an advertisement than as a programme.

In view of the item's presentation within the Licensee's schedule Ofcom concluded that it was not distinct as programme material and that Rule 9.2 had been breached.

Conclusion

This case is of considerable concern to Ofcom. In a Finding published in issue 237 of Ofcom's Broadcast Bulletin⁵ concerning breaches by the Licensee of Rules 5.5, 9.1 and 9.2 of the Code in relation to a number of community announcements shown on Channel Nine UK on behalf of political organisations, we noted that:

- the breaches which Ofcom found in that case were of considerable concern to Ofcom;

⁵ See issue 237 of Ofcom's Broadcast Bulletin at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2361/obb237.pdf>.

- Ofcom has reported previously on breaches of the prohibition on political advertising and breaches of Section Five by ‘community announcements’ that have concerned Bangladeshi political bodies and of which the Licensee ought to have been aware; and
- we would treat any similar future breaches by the Licensee as extremely serious and may consider them for the imposition of statutory sanctions.

In our view, the Licensee’s decision to broadcast the material considered in the present case, given the clear and specific guidance given by Ofcom in the Finding cited above, indicates either a lack of understanding or a reckless approach on the part of the Licensee towards its responsibilities under the Code.

The right to broadcast comes with responsibilities. It is important that broadcasters maintain due impartiality and do not use their licensed service as a platform to broadcast inherently partial items on matters of major political controversy and major matters relating to current public policy. In particular given that this is not the first instance in which we have found the Licensee to be in breach of Rules 5.5 and 9.2 of the Code over the past 12 months, Ofcom therefore views the breaches of Rules 5.5 and 9.2 in this case as particularly serious.

Ofcom therefore puts the Licensee on notice that we will consider these breaches of the Code for the imposition of a statutory sanction.

Breaches of Rules 5.5 and 9.2

In Breach

Guido (trailer)

FilmOn.TV, 24 March 2014, 12:00

Introduction

FilmOn.TV is an entertainment channel broadcasting on digital satellite platforms. The licence for FilmOn.TV is held by FilmOn TV Limited (“FilmOn” or “the Licensee”). *Guido* is an action film, released direct to DVD in the United States, which features Alki David (the owner of FilmOn.TV) as the main character in the film, Guido. The film has not been presented for classification to the British Board of Film Classification or released in the UK.

A complainant alerted Ofcom to scenes of graphic violence and torture in the trailer for this film, which the complainant did not consider to be appropriate for the time of transmission.

In summary, the trailer (shown about noon on a weekday) featured various scenes from the film in which Guido, a contract killer caught up in a deal that went wrong, was forced to transport a dead body across the United States while being pursued by several assassins and the Federal Bureau of Investigation. The trailer lasted approximately two minutes and included sequences of gun fighting and torture. By way of example we noted the following sequences.

Sequence One

This was broadcast about 14 seconds into the trailer and featured Guido talking to his boss Jerry O’Connell in a car garage. A very brief image was shown of an unknown man trying to pull away from Guido. There was a gun shot, and a close up of the man’s chest was shown with a bullet hole through his shirt before he fell to the ground. Guido threw a dagger at the killer in retaliation. A very brief shot of the killer followed, with the dagger through his neck.

Sequence Two

About 27 seconds into the trailer another male character was shown to shove a fire poker violently downwards, before the scene cut to an unknown man lying on the ground (only the stomach and chest could be seen) as the fire poker was stabbed into his stomach.

Sequence Three

This was broadcast about 57 seconds into the trailer and showed a close up shot of a barrel of a gun. A gun shot was fired through the peep hole of a door at the point that a man was shown trying to look through it from the other side. The man who was shot was shown to jerk his head back in reaction to being shot in the eye as blood sprayed from the wound and splattered against the wall.

Sequence Four

Just afterwards Jerry O’Connell greeted another character called Sid Shine. As Jerry hugged Sid, an unknown man hit Jerry on the back of his knees with a metal pole

and Jerry collapsed to the ground. A shot of Jerry sitting on a chair bound by rope followed before cutting to a close up shot of Sid's face as Sid held up a sander. Sid was then shown to move the sander towards Jerry's face as Jerry screamed in horror. The sequence concluded with a shot of Jerry's and Sid's shoes from under a doorway. The sound of the sander and Jerry's screams could be heard, as Jerry's feet kicked against the chair and blood splattered to the floor.

Sequence Five

This was broadcast about one minute and 20 seconds into the trailer and included three brief scenes: one man stamping on a victim's arm as the victim screamed in pain; Guido smashing a man's face onto what appeared to be a church pew; and, a fight between two men culminating in one stabbing a knife into the neck of his assailant.

Ofcom considered the material raised issues warranting investigation under Rule 1.11, which states:

"Violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed...and must also be justified by the context".

We therefore sought comments from FilmOn as to how this material complied with this rule.

Response

FilmOn said that the trailer had been scheduled in error and had been removed from its pre-22:00 schedule. The Licensee made no further comments.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appears to it best calculated to secure the standards objectives, including that "persons under the age of eighteen are protected". This is reflected in Section One of the Code.

Rule 1.11 requires that violence, its after-effects and descriptions of violence must be appropriately limited in programmes shown before the watershed and must be justified by the context.

We first considered whether the violence had been appropriately limited.

We noted that throughout this two minute trailer, as detailed in the Introduction, there were a number of brief sequences of violence and torture. The impact of the violence was heightened by the serious nature of some of the attacks: for example, the threat and implied use of the sander on a victim's face and the gun shot fired into a victim's eye through the peep hole of a door (see Sequences Three and Four in the Introduction). The combination of images of the impact of the weapons used by the assailants (such as dagger through the neck in Sequence One, and the use of the fire poker in Sequence Two), the splattering of blood in Sequences Three and Four, and the menacing sound effects throughout, compounded the effect of the material by emphasising the violent nature of the attacks on, or deaths of, the characters involved.

The sequences (as set out in the Introduction), when assessed individually, were clearly distressing. However, we considered the frequent scenes of violence, which were more suitable for adults in tone and content, condensed into a two minute trailer, resulted in a cumulative effect of content containing a significant level of violent material that was not appropriately limited.

We then considered whether the violence was justified by the context. Contextual factors include but are not limited to: the editorial content of the programme; the degree of harm likely to be caused by the material; and, the likely expectations of the audience.

Ofcom has issued guidance in relation to the watershed which includes advice on trailers¹. In this 2011 guidance we highlighted the importance of ensuring that: “trailers for post-watershed content scheduled pre-watershed include only content that is appropriate for a pre-watershed audience”. This is particularly important because viewers come across trailers unawares and broadcasters are unable to provide any context or warning to viewers in advance about the material they are about to see.

This trailer was broadcast pre-watershed to promote a film containing post-watershed material. It had no other editorial justification. As described above it contained scenes of violence and torture, condensed into two minutes, and was not preceded by any form of warning. This violent material was unsuitable for children and clearly had the potential in Ofcom’s view to cause distress to any children in the audience.

Ofcom noted that FilmOn.TV is a specialist channel unlikely to attract a significant child audience. However, the trailer was broadcast around noon on a weekday when children were available to view, and because it was a trailer the audience would have come across this content unawares.

For all these reasons Ofcom considered that the violent material included in this trailer was likely to have exceeded audience expectations for a trailer of this film genre to be broadcast at lunchtime on this channel. It was therefore in breach of Rule 1.11.

The Licensee said it had broadcast the material “in error”. We noted with concern, however, that FilmOn did not provide any detail of steps it had put in place to ensure that a similar mistake would be avoided in future. We also noted that this was the second Code breach regarding this area of compliance that Ofcom has recorded against FilmOn.TV in 2014². We are therefore requesting the Licensee to attend a meeting to discuss its compliance arrangements.

Breach of Rule 1.11

¹ <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb248/obb248.pdf>

In Breach

Sponsorship of Har Lamha Purjoush

ARY News, 29 March 2014, 23:30

Introduction

ARY News provides news and general entertainment programming, in Urdu and English, to the Pakistani community in the UK. The licence for ARY News is held by ARY Digital (UK) Limited (“ARY” or “the Licensee”).

Ofcom was alerted by a complainant to sponsorship credits around a cricket talk show called *Har Lamha Purjoush*.

Ofcom reviewed the programme and noted that during the sponsorship credits shown around the programme a voiceover stated “*Har Lamha Purjoush was brought to you by ‘Love fresh, Love tasty, Love Pepe’s’ in association with PDS Cargo and Zauq Foods*”. The credit for Pepe’s featured text stating “LOVE FRESH, LOVE TASTY” along with a brand logo and details of the company’s website accompanied by the text “*Visit our website to find your nearest store*”. The sponsorship credit for Zauq Foods, featured the text “*for trade enquiries please call [telephone number]*”.

Ofcom considered that the sponsorship credits for Pepe’s and Zauq Foods raised issues warranting investigation under the following Code rule:

- Rule 9.22: “Sponsorship credits must be distinct from advertising. In particular:
- (a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchases or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor’s products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement.”

We therefore asked the Licensee for its comments about how the material complied with this rule.

Response

The Licensee accepted that it had been a “mistake” to broadcast the sponsorship credits in this case. ARY assured Ofcom that it as a result it had taken corrective measures to avoid similar issues recurring, including a training workshop for relevant staff members about compliance with the Code rules derived from the Audiovisual Media Services (“AVMS”) Directive. The Licensee said it would place more focus on this area in future.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “the international obligations of the United Kingdom with respect

to advertising included in television and radio services are complied with". These obligations include ensuring compliance with the AVMS Directive.

The AVMS Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages or calls to action.

Rule 9.22(a) of the Code reflects this requirement. Among other things, Rule 9.22(a) requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. The focus of the credit must be the sponsorship arrangement itself and references to the sponsor's products, services or trade marks should be for the sole purpose of helping identify the sponsor and/or the sponsorship arrangement.

In particular, Ofcom's guidance² about Rule 9.22(a) makes clear that:

- "Broadcasters should take extra care when using [the sponsor's] straplines... that the primary focus of the credit is *clearly* on the sponsorship arrangement"; and
- "credits that contain direct invitations to the audience to contact the sponsor are likely to breach the Code."

Ofcom considered that both the voice over ("*Love fresh, love tasty, love Pepe's*") and on screen text ("*LOVE FRESH, LOVE TASTY*") were advertising messages. We also considered the text "*Visit our website to find your nearest store*" during the Pepe's credit and the text "*For trade inquiries please call [telephone number]*" during the Zauq Foods credit directly invited the viewer to contact the sponsors and were therefore clear calls to action. As a result we concluded that both credits were in breach of Rule 9.22(a).

Breaches of Rule 9.22(a)

Not In Breach

Benefits Street

Channel 4, various dates and times, January 2014

Introduction

Benefits Street was a five-part observational documentary series (“the series”) broadcast on Channel 4, filmed over the course of 2013, on a street in Birmingham where the majority of the residents were in receipt of state benefits. The editorial aim of the series was to observe the daily lives of the residents on James Turner Street and provide an insight into the personal lives and the experiences of a community affected by entrenched unemployment and recent changes to the benefits system.

Complaints

- Ofcom received 887 complaints about the negative way in which benefits claimants were presented in the series. The complainants considered that the residents featured, and the way in which they were presented, misrepresented and vilified benefits claimants and that this was offensive.
- Ofcom received 40 complaints that the programme demonstrated certain criminal techniques: for example, in Episode One an individual featured in the programme was shown lining a paper bag with silver foil to demonstrate a shoplifting technique and later removing a security device from a garment in a way which would prevent ink damage to the stolen item.
- Ofcom received 23 complaints from viewers who expressed concern about the children and young people under the age of eighteen featured in the series, and the due care taken over their physical and emotional welfare and dignity. None of these complaints originated from the parents or young people who were featured in the series.

Negative and offensive portrayal

We considered these complaints against Rule 2.3 of the Code: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...” Ofcom’s view was that some of the material in the series was capable of causing offence to viewers. We therefore went on to assess whether the nature of the series provided sufficient context to justify this offence. Ofcom noted the series was intended to be a reflection of a particular community living on one street in Britain where the majority of residents were dependent upon benefits and where there was one of the highest levels of long term unemployment in England.

The beginning of every episode in the series included an introduction in which the narrator stated: “*James Turner Street in Birmingham is not your average street...and most of the residents are claiming benefits.*” The aim of the series was therefore presented as being a record of the daily lives of some of the residents of this particular road to inform viewers about their lives and their community. Ofcom’s view was that it would have been clear to viewers, over the course of the series, that this was an observational documentary about the experiences of one community, and Ofcom considered that the programmes were in line with audience expectations for a

series of this nature. Therefore, after careful consideration, we concluded that overall Channel 4 ensured there was sufficient context over the course of the series to justify the offence and that it applied generally accepted standards.

Ofcom therefore considered that these complaints did not raise issues warranting further investigation.

Criminal techniques

Ofcom sought information from Channel 4 on how it ensured compliance with the Code on this issue. Having carefully considered Channel 4's response, Ofcom was satisfied that certain essential details were not broadcast which may have enabled the successful commission of a crime, and that there was a sufficient editorial justification for including the material broadcast.

Ofcom therefore considered that these complaints did not raise issues warranting further investigation.

Welfare of child participants

The focus of the series was the interaction between the adults who lived on James Turner Street. A number of children and young people under the age of eighteen, who lived with their families on the street, were also present however and their contributions were featured during the series, particularly in Episode Three.

In summary, complainants raised specific safeguarding issues about:

- the "verbal abuse", "emotional abuse" and "physical abuse" the children featured were allegedly exposed to in the series, which some complainants considered was "distressing" or should not have been broadcast "for the purposes of entertainment", or which the production team did not report nor stop while filming was taking place;
- the physical safety and wellbeing of a child who was shown by an adult how to ignite a deodorant can with a lighter to make a flame thrower;
- the alleged "neglect" of two young children featured in the series and the use of a "punishment porch" to control the behaviour of one of the children; and
- the potential negative impact on the children featured, resulting from their very public exposure in the series and the subsequent media and social media coverage arising from it, which the complainants were concerned had the potential to stigmatise the children and lead to vilification and bullying.

Ofcom considered that the material featuring under-eighteens warranted investigation under the following rules of the Code:

Rule 1.28: "Due care must be taken over the physical and emotional welfare and the dignity of people under eighteen who take part or are otherwise involved in programmes. This is irrespective of any consent given by the participant or by a parent, guardian or other person over the age of eighteen in loco parentis."

Rule 1.29: “People under eighteen must not be caused unnecessary distress or anxiety by their involvement in programmes or by the broadcast of those programmes.”

We requested comments from Channel 4 as to how the series had complied with these rules. In particular, Ofcom asked Channel 4 to set out the steps taken, before, during and after production, to ensure due care was taken with regard to the children featured in this series and:

- any information provided to the children (and their parents) who participated before production which advised them on the nature of the series, and what their likely expectations of what the series as broadcast might be;
- any independent advice sought before and/or during production with regard to the children participating in the programme, and whether any individuals, other than the parents and/or carers of the children, were available during production to oversee the child participants’ welfare; and
- any steps taken to advise the parents of the children featured, and the children themselves, of the potential negative consequences of their participation, and to prepare them for any comments in the media and on social media generated by the broadcast of this series.

When considering a case involving Rules 1.28 and 1.29, Ofcom may also as appropriate make an assessment of whether the matter raises issues warranting investigation under the following rule of the Code:

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Appropriate information should also be broadcast where it could assist in avoiding or minimising offence.”

Ofcom noted that some material featuring the children in the series may have had the potential to cause offence to some viewers. However Ofcom also noted that this observational documentary series reflected the real lives of the children involved. In Ofcom’s view, this was significantly different from, for example, an entertainment, reality or drama format in which children might be shown behaving or reacting in certain ways only because of their involvement in that particular programme. Also the material which featured the children was limited and this in turn, in Ofcom’s view, reduced any potential for offence. As a result, Ofcom considered that any offence arising from the participation of children in this particular series was justified by the context and did not raise issues warranting investigation under Rule 2.3.

Response

Channel 4 explained that the series was not “principally about under-eighteens” and the focus was very much on the adult contributors and the interaction between them. The broadcaster stated: “it was anticipated that minors would be present and would at times be filmed but it was also anticipated that their contributions would be largely subsidiary or incidental to the main narratives of the series.” Nonetheless, Channel 4 stated that “thought and care was given from the start” as to how the children of the main contributors would be treated. Channel 4 then set out the steps it had taken at each step of the production process to ensure the series complied with Rules 1.28 and 1.29.

Before production

Channel 4 said that one of its first considerations when commissioning *Benefits Street* was the suitability and experience of the production company, Love Productions (“Love”). In its view Love was very well qualified to produce a series of the challenging nature of *Benefits Street* partly because it had extensive experience of filming with children. Channel 4 went on to set out the steps taken by the production company Love to ensure due care of the children who might be featured before production commenced:

- An editorial protocol was drawn up which included a number of specific measures for safeguarding the welfare of the under-eighteens taking part in the series. All relevant members of the production team were reminded of the requirements of the Code rules and associated Guidance, Love’s own *Protocols for Working with Children*, as well as Channel 4’s own guidelines. A “referral up” policy was implemented to support the more junior members of the production company.
- Before any decision was taken to feature a family in the series, consideration was given as to their suitability, “in terms of their robustness as individuals and as a family, their support networks, any particular vulnerabilities arising from their individual histories/personal circumstances and, of course, their ability to understand fully what was involved including the positive and negatives consequences of being involved in a nationally televised series”.
- To ensure the families understood the nature of their contributions and the series as a whole, the families and individuals on James Turner Street were given “a fair and accurate description of what the series would be about” before production commenced. All contributors were told the series would be an observational documentary about life on a street where the residents were primarily claiming benefits and the focus of the series would be on the characters and the sense of community on the street. Over the months during the production, as particular themes emerged, there were further discussions with the residents about other issues in their lives such as addictions, money, relationships and family. Although the contributors were initially advised the working title of the series was *The Street*, it was made clear this was a working title and that it might change during production.
- The main contributors were also informed at an early stage that they would have the opportunity to view the programmes in which they and their children appeared to review their contributions in context before transmission and make representations to the programme-makers if they had any concerns.
- As is standard practice when dealing with programmes dealing with complex family matters, before production commenced, the production company sought confidential disclosure from the families about previous convictions, their medical and psychological health and their involvement with external agencies such as social services. Where external agencies were involved they were notified by the contributors of their participation in the series.

Channel 4 said that careful consideration was given as to the appropriateness of requiring all potential main contributors (and their families) to undergo psychological assessment prior to being accepted as contributors. After some deliberation it was decided this was unnecessary, given the format of the observational documentary. Notwithstanding this decision, and as a precautionary measure, Channel 4 confirmed

that a fully qualified and experienced clinical psychologist was appointed by the producers to advise on any specific welfare issues, especially involving children. The production team referred to this individual for advice and support on several occasions and where necessary offered referrals to the contributors.

During production

Channel 4 said that the production team was a constant presence on James Turner Street for a prolonged period of time having met some of the residents in July 2012 when the location was first considered. The crew filmed with the families regularly for a number of months in 2013. For example, Deirdre Kelly (“White Dee”) and her family were filmed regularly from February to November 2013, and Mark and Becky and their children from February to October 2013. Consequently, over these periods of time, the production company built up a comprehensive picture of the families’ lives and, as experienced programme-makers they were responsive to any issues which arose. For example, Channel 4 highlighted that during production:

- the experienced independent clinical psychologist who was appointed at the pre-production stage, was retained throughout the production. During production the production team sought advice from the psychologist and contributors were offered referrals/consultations as appropriate. A small number of children sought consultations after discussions with their families during production and during the transmission of the series. In all the cases the outcome was positive and led to potential issues being dealt with and resolved to ensure that the under eighteen contributors were being properly cared for; and
- the production crew always consulted with the parents before filming and no filming would take place with children unless prior consent had been obtained. This was an ongoing process meaning that even if the crew had general consent to film a child, and that child had been filmed before, prior parental consent would still be sought. Further, where filming of under-eighteens did take place it was made clear to the children (as appropriate given their age and level of understanding) that they did not have to agree to be filmed if they did not want to, and that filming could be stopped at any time. Only one child under eighteen was interviewed and filmed alone without their parent overseeing the filming (the child was fifteen at the time). It was made clear that she did not have to respond to the questions if she did not wish to and her decision to talk about her life and experiences was with the full consent of her mother.

After production

It was anticipated by Channel 4 and the production company that the series could attract significant press attention and social media activity and discussions were had at various points during the production with the parents and children who were likely to feature dominantly in the series. Channel 4 set out the steps taken by the production with regard to ensuring due care of the children who featured after production:

- the parents were advised that teasing and bullying were possible outcomes, if only for a short time, as well as negative comments in the media and on social media. Accordingly, parents were advised to inform their schools about their involvement in the series together with transmission dates, to ensure support could be provided should it be required. Parents were informed that if the schools had any concerns or wanted more information they should contact Love, and the

production company's contact details were made available. Following transmission of the first episode and in response to the unprecedented media attention and presence on James Turner Street, Channel 4 advised the Head Teacher of the local school on the street that it would notify her in advance of each transmission as to who, among her students, was to be included in that week's programme as a precautionary measure;

- specific detailed advice was given to the featured contributors about how to deal with the media and social media. A Channel 4 press officer met with the main contributors and talked through the fact that the series might attract considerable media interest and that any requests for interviews or information should be directed to the press office. Further advice was given on the likelihood of criticisms and unpleasant comments on social media. All contributors were provided with a copy of Channel 4's *Online Communities Tips for Programme Contributors* document. In the run up to the transmission of the series, contributors were also given considerable practical advice about strengthening privacy settings on social media sites, and support and education on how to block or complain about abuse from social media sites;
- at every viewing of the episodes of the series prior to transmission, parents were invited to voice any concerns they may have in relation to their children. As a result of concerns raised, some changes were made to the content right up to the day of transmission; and
- following the unprecedented media attention that the series and contributors were receiving once the series started transmitting, a decision was taken to send a senior member of the production team to Birmingham to provide ongoing support to the contributors.

Specific issues

In addition to the general concerns raised, Ofcom asked Channel 4 to respond to the specific safeguarding issues arising from the participation of under-eighteens in this series raised by some complainants and outlined in the Introduction e.g. the alleged emotional, verbal, and physical abuse suffered by some of the children featured in the series; the safety of a child shown how to ignite a deodorant can; and, the use of a "punishment porch" to control the behaviour of one of the children.

On the first issue, Channel 4 pointed out that the series was filmed in "a normal documentary fashion", with "nothing pre-arranged", and the films were an "honest reflection of what happened over a year of filming." The key editorial aim was to "observe" the daily lives of the residents featured and thereby provide an insight into a community living with the impact of benefits cuts.

On the issue of the safety of the child shown listening to a resident on James Turner Street explaining how to ignite a deodorant can with a lighter, which some complainants considered highly dangerous, Channel 4 stated that this scene "happened organically". The camera was following the adult and the child happened to come over to listen to the adult who was explaining how it is possible to set fire to an aerosol can. This scene took place "almost directly opposite" the child's house and his mother was sitting in the room with the door open. The child was told about the dangers of playing with fire.

On the issue of the alleged “neglect” of two young children featured in the series and the use of a “punishment porch” to control the behaviour of one of the children, Channel 4 said that viewers saw the parents explain to the two health workers who visited the home that the porch area was their alternative to a “naughty step”. Although one of the health visitors looked surprised on camera neither commented nor advised against it. Channel 4 also explained that the production team witnessed some of the difficulties the parents in question were experiencing parenting one child in particular and it was the programme-makers who informally raised the subject of parenting classes. The father contacted an external agency which was shown in the series and which provided ongoing support to the family. By the end of the episode this advice was shown to be having a “positive influence on all of their lives” with the child’s behaviour improving.

In conclusion, Channel 4 said that *Benefits Street* sat “at the heart of Channel 4’s remit to make difficult, challenging and informative documentaries about real issues faced by society.” It was the job of the documentary film maker to record the truth as closely and as responsibly as possible but this always had to be done with care and consideration, having regard to the safety and well-being of those whose lives they are documenting – particularly where children and/or the vulnerable are concerned.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appears to it best calculated to secure the standards objectives. One of these objectives is that people under the age of eighteen are protected (including young people under the age of eighteen who take part in programmes); This objective is reflected in Section One (Protecting the Under-Eighteens) of the Code.

In reaching this Decision, Ofcom has taken account of the audience’s and the broadcaster’s right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights. Article 10 provides for the right of freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. We also took account of Channel 4’s special statutory public service remit, set out in Section 265 of the Communications Act 2003, which requires it to demonstrate “innovation, experimentation and creativity” and to include programmes of an “educative value” and with a “distinctive character”.

Ofcom has published detailed Guidance on the interpretation and application of Rules 1.28 and 1.29 (“the Code Guidance”), which was drafted with the assistance of child experts and child welfare groups. The purpose of the Code Guidance is to help broadcasters achieve the appropriate level of protection for under-eighteens in programmes when complying with these rules.

Rule 1.28

Ofcom first assessed whether the programme breached Rule 1.28. This rule requires that due care is taken over the physical and emotional welfare and dignity of people under the age of eighteen who take part in programmes. The phrase “physical and emotional welfare and the dignity of people under eighteen” indicates the broad potential impact that participating in a programme might have on this age group.

Central to Rule 1.28 is the concept of “due care”. The Code Guidance makes clear that the level of care must be “appropriate to the particular circumstances”.

Broadcasters are required to decide what measures are appropriate in the context of individual programmes, genres and formats and the level of child participation involved. Relevant factors include a participant's age, and maturity and capacity to make judgements about participation and its likely consequences.

Having reviewed the series, we noted firstly that the under-eighteens featured were not the main focus of the series. Secondly, the format of the programme was an observational documentary, filmed over a period of time, which reflected the lives of those who lived on James Turner Street. Throughout the production of the series the under-eighteens remained largely in their home environment or community and, in almost all circumstances, under the supervision of their parents who were also contributing to the programme. There was one older child featured (who was 15 at the time of filming) who was filmed outside of the home while she was on work experience and she was interviewed separately without her parent supervising. However, in these examples the consent of the parent was given before any filming took place, and the parent viewed the material pre-transmission to ensure she was content with it. Given the nature of the format, the under-eighteens featured were generally not required, as part of the series, to undertake any role which took them outside of their normal lives, routines or community.

Consequently, in this case, Ofcom was of the view that the under-eighteens were not participating in a programme format which in itself had the potential to generate conflict or crisis (other than that which they would encounter anyway in their everyday lives on James Turner Street). Nor were they required to play a role concerned with a subject matter or involving language which was beyond their intellectual and emotional maturity. Rather the children were filmed participating in their everyday activities in their home environment or community and, in almost all cases, under the supervision of their parents. Consequently, we took account of the safeguards this format in itself provided and the fact that the children were not the main focus of the series and where they were featured, it was mainly in their home environment. As such, it was Ofcom's view that the appropriate level of due care in these circumstances was applied for this observational documentary series was not necessarily the same as might be required for other genres.

However, an observational documentary that exposes real children and their lives to public scrutiny may require a greater level of due care after production to ensure that potential negative outcomes, which may arise after broadcast, and any long term negative consequences are minimised as far as possible.

Ofcom therefore considered carefully the steps that Channel 4 and the production staff implemented during each stage of the production process to ensure the due care of the welfare and dignity of all of the under-eighteens who participated in the series.

Before production

As the Code Guidance makes clear, an important point for broadcasters is the development of written guidelines for working with under-eighteens, and that production teams are made fully aware of the key considerations in this area.

Ofcom noted that all of the relevant production crew were "explicitly" reminded of the requirements of the Code with regard to under-eighteens and required to read the relevant sections of the Code, the Code Guidance, the production company's own guidance *Protocol for Working with Children* as well as the relevant sections of Channel 4's Producers' Handbook. Ofcom was therefore satisfied that documented

guidelines were in place and referred to and, moreover, that the production company not only made itself aware of Channel 4's published guidelines and Ofcom's rules and Guidance, but that it had itself drawn up its own protocols for working with children.

The Code Guidance recommends that broadcasters ensure that appropriate background checks are made on an under eighteen's social, family, health and educational circumstances. The Guidance states these checks will vary depending on the programme genre and that in some circumstances "a thorough risk assessment" may help to ensure that the requirements of Rules 1.28 and 1.29 are met.

Ofcom noted that appropriate background checks were made before any decision was taken to feature a family in the series as main contributors. According to Channel 4, the production team considered the suitability of each family in terms of their "robustness as individuals and as a family" and other factors such as their support networks, particular vulnerabilities, personal circumstances and their ability to understand what was involved. In addition, given that the production was dealing with complex issues involving families, the production team sought confidential disclosure from the families of previous convictions, their medical and psychological health and the involvement in their lives of external agencies such as social services. Ofcom considered that given the programme genre these checks were sufficient to ensure that due care was provided.

The Code Guidance specifically states that "[d]epending on the programme genre, it may be beneficial to seek advice from an appropriately qualified professional such as child counsellor or psychologist who does not have a vested interest in the child's participation", and that broadcasters should: "consult appropriately qualified experts on the likely impact of participation where they reasonably can, especially in extreme or unusual cases". Rule 1.28 also states that ensuring due care applies is: "irrespective of any consent given by the parent". We noted that a fully qualified and experienced clinical psychologist was appointed by the producers to advise on any specific welfare issues especially those involving children. This individual was a qualified chartered clinical psychologist with additional qualifications in cognitive behavioural therapy and family therapy.

Finally, Ofcom was satisfied that the parents and young people were made fully aware of the nature of the series and that the informed consent by the parents of the children featured was obtained. We noted that additional consent was sought in each separate instance where a child or young person was featured in the series. Given the presence of the independent psychologist, who was available before and throughout the production, Ofcom was satisfied that an independent expert was available to the under-eighteens, in addition to their parents and the production team.

During production

Ofcom then assessed the steps taken by the broadcaster during production.

The Code Guidance states that production staff should be made fully aware of the physical and emotional well-being of under-eighteens and this should remain a central concern throughout production. The Guidance also states that: "it may be beneficial to seek advice from an appropriately qualified counsellor or psychologist who does not have a vested interest in the child's participation."

As noted previously, a qualified, experienced and independent clinical psychologist was retained throughout the production to advise on contributor welfare issues. The programme makers sought advice from the psychologist and she was also available for the young people and their parents if requested by them.

Ofcom noted that clear protocols were in place that the production team always asked for permission in advance or on the day before any filming with the children took place. In addition, the children were advised that they did not have to be filmed and that they could request that filming be stopped. According to Channel 4 the programme makers respected parents' views fully on the nature and extent of their children's participation.

After production

The Code Guidance sets out that it is at the discretion of the broadcaster to invite participants to view the final cut of a programme pre-transmission. In this case, the families were advised at an early stage that they would have an opportunity to view the programmes in which they appeared so they could view their children's contributions in context before transmission and voice any concerns regarding their children to the programme makers. Indeed, as a result of concerns expressed by parents at these viewings changes were made to the content of the episodes right up to the day of transmission.

Ofcom noted that the production company anticipated that the series would attract significant media interest and prepared for this by having a number of discussions with the main contributors whose children featured in the series. Parents were advised about the possible negative outcomes including bullying, and advised to notify their children's schools in advance and provide information about the transmission dates when their children would be featured. In addition, a month before transmission started, Channel 4 arranged for a press officer to meet the contributors and provide detailed advice on how to deal with the media and social media. This included guidance on referring journalists to the Channel 4 press office and practical advice on strengthening privacy settings to social media sites so that abuse could be blocked. Additional advice was given right up until the series started on 6 January 2014.

Following the widespread media attention after the broadcast of the first episode, Ofcom noted that the production company sent a senior member of the production team, who was well known to the families, to James Turner Street. Channel 4 said this individual remained a constant presence on the street and acted as a liaison point for the contributors, the channel and the production company, offering advice and reassurance throughout.

Given that it is our view that the nature of this series warranted considerable due care of under-eighteens after production, Ofcom was satisfied that Channel 4 planned for this in advance and ensured the participants were advised of the possible negative consequences and took steps before transmission to support the families. Following the significant media interest in the series, Channel 4 also took some additional measures. Overall in our view due care was sufficiently provided and the requirements of Rule 1.28 were satisfied.

Specific issues

Ofcom has noted the specific examples of concerns raised by some complainants regarding the care of the children who appeared in *Benefits Street*, in particular that

the under-eighteens featured appeared to be subject to physical, verbal and emotional abuse as well as neglect and harm. In addition, some complainants were concerned that the production team did nothing to intervene and prevent this from happening.

Ofcom was made aware by Channel 4 that in the instance of the alleged neglect and harm, the production team had suggested informally to the family that parenting classes may be beneficial. Contact was made by the family with an external agency and this led to a positive outcome for the family by the end of the episode. Further, it was explained in Episode 3 that social services were already involved with the family prior to the commencement of the filming, as were other parties, and none raised concerns about the family's participation in the series.

With regard to the other concerns, there were several examples in programmes of parents regularly using the most offensive language in front of their children and one example of a parent losing her temper with her child. Ofcom noted these concerns but is of the view that this was an observational documentary: its aim was to reflect the lives of the children featured as honestly as possible. Given that the production team explored health and psychological issues with the contributors before filming and a psychologist was available throughout production, Ofcom is satisfied that the production team took steps to ensure the children featured in the series were not in any danger of material harm from the behaviour of their own families.

Ofcom therefore concluded that in this case Channel 4 took due care over the welfare and dignity of the under-eighteens and there was no breach of Rule 1.28.

Rule 1.29

This rule requires that children under eighteen must not be caused "unnecessary distress or anxiety by their involvement in programmes".

The Code Guidance recognises that some genres and formats of television focus on conflict and crisis in personal relationships and these often feature experiences that have caused, or may cause, distress and anxiety. Therefore, broadcasters need to make very careful decisions when involving under-eighteens in such programmes.

In this case, however, Ofcom was of the view that the format of the observational documentary aimed to reflect the real life experiences of the children featured. Therefore there was less likelihood that participating in this production could cause distress and anxiety.

As noted above, Ofcom considered that Channel 4 took all appropriate steps to ensure the due care of the young people featured in *Benefits Street*, before, during and after production, and by doing so ensured that any distress which may arise from participating in the series was minimised. The Code Guidance makes clear that certain genres are more likely to generate distress and anxiety than others. When a format seeks to reflect the everyday life of children living in a deprived area, it is likely that some viewers may feel uncomfortable viewing the experience. However Ofcom was of the view that Channel 4 sought to reflect the lives of the young people concerned, rather than place the children in any distressing situations. Ofcom therefore considered that this material was not in breach of Rule 1.29.

Conclusion

For all these reasons Ofcom concluded that Channel 4 ensured that the interests of the under-eighteens who featured in *Benefits Street* were protected and that due care was applied before, during and after production. In many respects, the due care provided by Channel 4 in this case demonstrated best practice and the fact that the children's welfare was at the heart of the production.

In coming to this Decision, Ofcom took careful account of the broadcaster's and audience's right to freedom of expression. Observational documentaries which honestly seek to reflect the real life experiences of others can challenge viewers' perceptions, particularly where children and/or the vulnerable are concerned. In these circumstances, Ofcom's role in applying Rule 1.28 and 1.29 is not to judge whether it is appropriate to reflect a child's life in a certain way, even if it uncomfortable to some viewers to see children living in certain environments. Our duty is, rather, to ensure that the broadcaster took due care of the children in terms of their physical and emotional well-being while they were participating in each stage of the production and following transmission. In this case Ofcom was satisfied that, particularly given Channel 4's remit to make challenging and difficult programming, this series illustrated important issues facing some children living in contemporary Britain while ensuring that due care was applied to protect their interests throughout the production process.

Not in Breach of Rules 1.28 and 1.29

Advertising Scheduling cases

In Breach

Advertising minutage

ABP News, 22 February to 9 March 2014, various times

Introduction

ABP News is a 24-hour news service broadcasting in Hindi which covers current affairs issues as well as dedicated entertainment news programmes. The licence for ABP News is held by Media Content and Communications Services (India) Private Limited (“MCCS” or “the Licensee”).

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes.”

During monitoring of licensees’ compliance with COSTA, Ofcom noted that there were 32 instances when the channel exceeded the maximum allowance per clock hour. The overruns in the affected clock hours ranged from six seconds to one minute and five seconds.

Ofcom considered the matter raised issues warranting investigation in respect of Rule 4 of COSTA. We therefore asked the Licensee for its comments under this rule.

Response

MCCS apologised for this “error” which it said was “inadvertent and purely unintentional”. The Licensee said it “never intended to exceed” the 12 minute advertising allowance. MCCS explained that the issue was “largely due to the last advertisement break [towards the end] of the clock hour spilling on to the next hour”, resulting in the next clock hour exceeding the permitted allowance. The Licensee added that sometimes “exigencies of the news content push this last commercial break causing such incidents.”

MCCS said that it is “still evolving and working” on its scheduling and compliance processes to ensure that it is “in sync with the Ofcom guidelines”. The Licensee added that it has made changes to its compliance procedures to ensure this issue does not occur again, specifically by concluding the news bulletin in time to prevent the advertising breaks from overrunning into the next clock hour.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the Audiovisual Media Services Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these

requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring its licensees' compliance with COSTA.

In this case, we noted the Licensee's explanation for its "error" and its assurance that new procedures would improve future compliance with COSTA. Nevertheless, we considered that the Licensee's processes should have anticipated that, on a 24-hour news service, there would be numerous occasions when it would have to balance the editorial requirements of live broadcasting with its obligation to comply with the rules in COSTA. Because it had not done so, and allowed advertising scheduled in one clock hour to be broadcast in the following clock hour, the channel exceeded its permitted advertising allowance on 32 occasions in 16 days in breach of Rule 4 of COSTA.

Ofcom reminds the Licensee that it is not an acceptable practice to push advertising forward into the next clock hour without anticipating the implications for advertising minutage and making the appropriate compensations.

Breaches of Rule 4 of COSTA

In Breach

Advertising scheduling

Channel 5, 8 March 2014, 21:00

Advertising minutage

Channel 5+24, 9 March 2014, 23:00

Introduction

On 8 March 2014 at 21:00, Channel 5 broadcast *UFC: Fight Night London Live*, a programme containing a series of mixed martial arts bouts from the O2 Arena in London. This content was repeated on Channel 5+24 on the following evening.¹

Ofcom received two complaints about the 8 March broadcast of *UFC Fight Night London Live* on Channel 5. The complainants stated that they were aware that another channel had broadcast the bouts before the Channel 5 transmission and as a result challenged whether Channel 5's coverage was accurately described as live.

Channel 5 Broadcasting Limited ("the Licensee") confirmed that the headline bouts in the programme were broadcast with a delay which varied between twelve and 20 minutes. It also confirmed that the only material broadcast live was the studio discussion between bouts.

Ofcom noted that this programme was 120 minutes in length and contained nine internal advertising breaks. Rule 17 of the Code on the Scheduling of Television Advertising ("COSTA") stipulates the number of internal advertising breaks permitted in programmes based on their scheduled duration. For example, Rule 17 permits a maximum of six internal advertising breaks in programmes with a scheduled duration of 120 minutes.²

However, Rule 16(f) of COSTA allows broadcasters to insert more internal advertising breaks during the transmission of live events than Rule 17 permits. The intention of this rule is to enable broadcasters showing live sporting events to utilise their advertising allowance without missing integral elements of the event³.

Ofcom considered this matter raised issues warranting investigation under Rule 17 of COSTA.

Separately, the Licensee notified Ofcom that on 9 March 2014, 13 minutes and 34 seconds of advertising was transmitted in the 23:00 clock hour, during the repeat of *UFC: Fight Night London Live* on Channel 5+24.

¹ Channel 5+24 is a channel which, between 19:00 and 00:00, shows much of the content broadcast on Channel 5 on the previous evening, and a mixture of teleshopping and editorial content at other times.

² Tables setting out the number of internal breaks permitted in programmes on Ofcom licensed services can be found at: <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/tacode.pdf>.

³ For example, in the coverage of a live tennis match, Rule 16(f) facilitates the insertion of short internal breaks when players change ends.

Rule 4 of COSTA states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes.”

Ofcom considered this matter raised issues warranting investigation under Rule 4 of COSTA.

We therefore asked the Licensee for its comments as to how it had complied with the rules cited above.

Response

Channel 5, 8 March 2014, 21:00

The Licensee stated that Rule 16(f) of COSTA was “clearly designed to allow breaks to appear in certain types of live sporting event, such as cricket matches and boxing fights, where there is continuous action interspersed with short intervals”.

The Licensee said that because coverage of the event was supplied by the promoters to a range of broadcasters internationally it did not have control on the exact timing of bouts and that consequently it was not possible to plan precisely when breaks could be taken. To account for this, its duty scheduler had prepared a “dummy schedule” for the production company setting out when breaks should occur. The Licensee said that for this programme, the dummy schedule was divided into ten parts to allow for breaks to be taken between rounds of a bout to be shown live.

The Licensee explained that on the evening in question, and without any advance warning, the event ran significantly ahead of schedule, with the result that the co-headline fight was already under way when the programme went to air. As a result, its production team decided to record the bout and broadcast it with a 12 minute and 37 second delay. The Licensee explained that it was still showing the bout when the other co-headline fight began. The second fight was, again, recorded and broadcast with a delay – this time of 20 minutes and five seconds.

The Licensee said that the complexity of responding to unforeseen and changing events pre-occupied its production team during the broadcast. Consequently, the production team did not amend the planned advertising break pattern and nine advertising breaks were broadcast.

The Licensee conceded that there might be an argument that it had not applied Rule 16(f) appropriately in this case given that the sporting action was recorded and shown ‘as live’. It noted, however, that many sports events “broadcast live” involved a short built-in time delay and argued that the transmission delay in this case was the result of a unique and challenging set of circumstances for its production team.

Channel 5+24, 9 March 2014, 23:00

The Licensee said that the incident was the result of human error. It explained that when editing this material for repeat transmission on Channel 5+24, it had had to take into account both the actual timings of the original broadcast (which inevitably differed from the dummy schedule), and the number and duration of the breaks as the exemption in COSTA for live sporting events no longer applied. It had therefore removed, edited or extended the original broadcast’s internal breaks so that it would comply with Rule 17 of COSTA.

The Licensee submitted that it was during this complicated process that a miscalculation occurred which resulted in advertising minutage intended for the 22:00 clock hour being broadcast in the 23:00 clock hour. This resulted in the 23:00 clock hour containing one minute and 34 seconds more advertising than permitted by Rule 4 of COSTA.

The Licensee largely attributed the error to teething problems “with a new type of channel concept (a full one day timeshift)” compounded by the challenges of broadcasting live sport. It added that to reduce the risk of a recurrence, it had since used this experience for training purposes with its scheduling team and will also explore the potential for transmission controllers to double check the schedule for COSTA compliance.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the Audiovisual Media Services Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring of its licensees’ compliance with COSTA.

Channel 5, 8 March 2014, 21:00

Rule 17 of COSTA states that a 120 minute programme can contain a maximum of six internal advertising breaks. However, Rule 16(f) exempts coverage of live events from this rule. Ofcom first considered whether this exemption should apply to this broadcast of *UFC: Flight Night London Live*.

As set out above, Rule 16(f) is designed to allow broadcasters to show commercial breaks without missing important aspects of live continuous sporting events. However, if events are recorded and broadcast with a delay, it is open to broadcasters to pause or edit programme material so that viewers do not miss any significant sporting action.

Ofcom noted that the Licensee broadcast the co-headline bouts 12 minutes and 34 seconds, and 20 minutes and five seconds after they had taken place. Further, we noted that no other bouts in the programme were broadcast as they happened. Because the break pattern adopted by the Licensee in this case was not required in order to accommodate the broadcast of a live event, we concluded that Rule 16(f) of COSTA did not apply.

Ofcom noted the arguments put forward by the Licensee, in particular that: it had intended to broadcast live coverage of the headline bouts; the actual start time of the bouts fell outside of its control; and that it had had no advance notice that the bouts were to begin ahead of schedule.

Ofcom recognises the coverage of live events increases the risk of unexpected problems requiring last minute decisions about possible schedule alterations. However, it is the responsibility of all licensees to ensure that the procedures they have in place are sufficient to ensure compliance with COSTA.

However, in this case, despite the fact that it had been aware that the timings of the event would be outside its control, the Licensee had not prepared an alternative advertising schedule. Ofcom was concerned that, having decided to broadcast the bouts with a delay, the Licensee continued with its planned schedule despite the fact that it was not compliant with COSTA. Because the programme contained three more advertising breaks than the permitted allowance we concluded it had breached Rule 17 of COSTA.

Channel 5+24, 9 March 2014, 23:00

Ofcom acknowledged that the broadcast by a “whole day time shift” channel of material originally shown live may create editorial difficulties. However, it is the responsibility of licensees to ensure that they have adequate procedures in place to ensure that they comply with the rules set out in COSTA.

We were concerned that, in this case, the fact that the break schedule for the 23:00 clock hour contained significantly more advertising than permitted was not detected by the Licensee before the programme was broadcast. We recorded a breach of Rule 4 of COSTA.

Channel 5, 8 March 2014, 21:00: Breach of Rule 17 of COSTA
Channel 5+24, 9 March 2014, 23:00: Breach of Rule 4 of COSTA

Broadcast Licence Conditions cases

In Breach

Provision of recordings and information

Yol TV, 19 February 2014, 18:00 to 23:00

Introduction

Yol TV is a satellite television service which broadcasts in Turkish. The licence for Yol TV is held by Yol Media Limited (“the Licensee”).

On 19 March 2014, Ofcom requested, for the purpose of routine monitoring of compliance with the Code on the Scheduling of Television Advertising (“COSTA”), the following information from the Licensee:

- full transmission logs for Yol TV (outlining programmes, advertisements and sponsorship) between 18:00 and 23:00 in the country of viewing for 19 February 2014;
- listings/schedules for the same period; and
- recordings for the same period as it was broadcast.

Ofcom did not receive a response to our request by the specified deadline. We therefore wrote to the Licensee reminding it of its responsibility to supply us with the material requested by a new deadline. Again, the Licensee did not respond to our request within the deadline.

Ofcom considered that the matter warranted investigation under Condition 11(2) and Condition 12(1) of Yol Media Limited’s Television Licensable Content Service licence (“TLCS”). These state that:

Condition 11(2): “The Licensee shall:

(a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and

(b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction...”

Condition 12(1): “The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purposes of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act...”

We therefore asked the Licensee for its comments about compliance with its licence obligations.

Response

The Licensee responded by providing a copy of the recording and explained that it had “missed the first request in March”. It did not supply the other information also requested, nor provide any explanation as to why it had not done so.

Following Ofcom’s Preliminary View on the matter, the Licensee provided Ofcom with a further copy of the recording and transmission information for the same period (which had not been provided previously). It explained that the deadline was missed due to a miscommunication between its staff, thinking that Ofcom’s request had been satisfied. It apologised for this and said that procedures had been put in place to stop this occurring again.

Decision

Under the Communications Act 2003, Ofcom has a duty to ensure that in each broadcaster’s licence there are conditions requiring the licensee to retain recordings of each programme broadcast, in a specified form and for a specific period after broadcast, and to comply with any request to produce such recordings issued by Ofcom. TLCS licences enshrine these obligations in Licence Condition 11. Licence Condition 11(2)(b) requires licensees to produce such recordings to Ofcom forthwith upon request.

In addition, licensees are required under Licence Condition 12(1) to provide additional information to Ofcom when such information is necessary to enable Ofcom to exercise its functions.

Breaches of Licence Condition 11(2)(b) and 12(1) are serious because they impede Ofcom’s ability to assess in a timely way whether a particular broadcast raises potential issues under the relevant codes. This can therefore affect Ofcom’s ability to carry out its statutory duties in regulating broadcast content.

In this case, the Licensee did not respond to Ofcom on two occasions when it had been requested to provide material. When it did respond, the material supplied was initially incomplete, containing none of the transmission information requested. The transmission information was only supplied to Ofcom after the Preliminary View on this matter was received by the Licensee. The Licensee clearly did not therefore provide the recording “forthwith” in breach of Licence Condition 11(2) (b) or the additional information requested within the deadlines set by Ofcom in breach of Licence Condition 12(1).

Although we noted the Licensee’s explanation that it had “missed the first request” and that there had been “a miscommunication between the staff thinking that the request had been satisfied”, it is the responsibility of licensees to ensure that contact details supplied to Ofcom are kept up to date, monitored appropriately, and responded to with deadlines given. Ofcom expects its licensees to have measures in place to ensure both that recordings and any additional information requested are provided to Ofcom in a timely manner.

Breach of TLCS Licence Conditions 11(2)(b) and 12(1)

In Breach

Providing a service in accordance with ‘Key Commitments’

Meridian FM (East Grinstead), 13, 14 and 15 February 2014

Introduction

107 Meridian FM is a community radio station licensed to provide a service for the population of East Grinstead and the surrounding area. The licence is held by Meridian FM Radio (“Meridian FM” or “The Licensee”).

Like other community radio stations, Meridian FM is required to deliver the “Key Commitments” which form part of its licence.¹ They set out how the station will serve its target community and include a description of the programme service, social gain (community benefit) objectives such as training provision, arrangements for access and participation for members of the target community, and accountability to that community. The “Character of Service” contained within the Key Commitments requires that “Meridian FM will offer a wide range of local programmes produced and presented by local people aimed specifically at the immediate community.”

Ofcom received a complaint that Meridian FM was failing to deliver certain Key Commitments, and under-delivering on others.

Ofcom therefore requested recordings of three days of Meridian FM’s output, covering Thursday 13 February, Friday 14 February and Saturday 15 February 2014. After monitoring this output and assessing it alongside additional information we requested from the Licensee, we identified a number of concerns about Meridian FM’s delivery of the following Key Commitments:

Live output

“The service will typically be live for 12 hours per day. (Live programming may include pre-recorded inserts, if applicable).”

Ofcom noted that the live hours broadcast during the monitoring period were eight hours on Thursday 13 February, 12 hours on Friday 14 February, and two hours on Saturday 15 February. Two days therefore did not meet the 12 hour live output requirement.

Music to speech ratio

“Output will typically comprise 70% music and 30% speech (‘speech’ excludes advertising, programme/promotional trails and sponsor credits). Evening and overnight output will have a higher proportion of music.”

Due to the lack of live hours broadcast on two of the three days monitored, the station’s daytime speech content did not reach 30%.

¹ The Key Commitments are contained in an annex to Meridian FM’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000215.pdf>.

Local news and sport

“Speech output will include local news.... Information on local sports will also feature from time to time.”

We noted that a Sky News bulletin was broadcast every hour during live programming hours; however this covered only international and national news, with occasional national sports news. There was no evidence during the monitoring period of any other scheduled news bulletins or other speech content covering ‘local news’. There was also no ‘information on local sports’ identified by the Licensee.

Specialist music

“Music output will comprise...with specialist music shows focussing on specific musical tastes.”

In the three days monitored we identified two scheduled shows which could be considered to focus on “specific musical tastes” (“Off the Beaten Track” and “Funky Weekend Music”), plus a Valentine’s Day “Love Songs Special”. However, these appeared to be examples of “themed” programming rather than “specialist music shows focussing on specific musical tastes.”

Ofcom considered that, taken together, these issues warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to Meridian FM’s licence. These state, respectively:

“The Licensee shall provide the Licensed Service specified in the Annex² for the licence period.” (Section 106(2) of the Broadcasting Act 1990); and

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).

We therefore wrote to the Licensee to request its comments on how it was complying with these Conditions, with reference to specific Key Commitments.

Response

The Licensee stated that “these days comprise an exception to our normal service”. It outlined recent changes to the station’s management and board, and explained that time constraints on many of the station’s previous volunteers had undermined the management’s ability to run the station as they would wish to. Meridian FM accepted that the three days of monitoring, in isolation, did not meet the full Key Commitments and admitted that there were lessons to be learned around the recruiting and training of an adequate number of stand-in presenters. The Licensee assured Ofcom that the number of gaps in the schedule is reducing and will “disappear later this year”.

The Licensee also drew our attention to stormy weather conditions present around the time of monitoring. “...I think we can agree that Sussex was not a good place to be on the 14th and 15th, storm damage a priority for many families [on the] 15th February...The advice at the time was not to travel unless they had to especially over a weekend, with so many activities cancelled.”

² Meridian FM’s Key Commitments can be found at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000215.pdf>.

Live Output

The Licensee stated that, in general, “the service is typically live between 07:00 and 22:00, seven days a week”, thereby aiming for a daily target of 15 live hours. Meridian confirmed that over the three “specific and unusual days” Ofcom monitored, the hours fell short of both this target and the required minimum.

Music to speech ratio

The Licensee confirmed that over the three days of monitoring the station failed to meet the required 30% minimum speech commitment, and explained that this was due to “gaps in our schedule caused by annual leave, sickness and a lack of trained stand-in presenters at the time”. It noted that speech often accounted for 80% of content per hour when local guests are interviewed, and at times 100% when debating local topics of interest, such as a recent programme which discussed the closure of a local youth centre.

Local news and sport

Meridian FM stated that “in general we meet this commitment in full during our live broadcasts” and that “this was compromised in part by lower than normal live broadcasting over these three days”. The station provided Ofcom with many examples of how it had fulfilled other requirements contained within this particular Key Commitment, such as the provision of travel information, local weather forecasts, local events information, and interviews with local guests. In addressing the specific requirement for “local news”, the Licensee stated that “we collect local news with a dedicated e-mail address, and also receive flyers in the office. This local material is quickly turned around by a dedicated presenter and written up to form appealing promotions of local community events.”

The Licensee also noted that “over the period of investigation there were no football or rugby fixtures, due to the weather conditions in and around East Grinstead and across Sussex...East Grinstead Town club matches had been postponed from 25th January to up to and including the 15th February.”

Specialist music

In response to Ofcom’s concern regarding the lack of “specialist music shows”, the Licensee responded that “due to an unusual absence of presenters at the start of this holiday period the balance was tilted towards general music as opposed to our normal rich crop of locally sourced specialist music programmes”.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a Licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Meridian FM is licensed to provide a local service for the population of East Grinstead and the surrounding area, and as such, live local speech content should reasonably be expected to constitute both a frequent and prominent part of its output.

Live output

We noted that the Licensee had confirmed that, on two of the three days we monitored, it had under-delivered on the required 12 hours per day of live broadcasting required by its Key Commitments. Saturday 15 February was particularly poor in this respect, with only two hours of live output provided.

Music to speech ratio

We considered that the Licensee had clearly failed to deliver an output of “typically 30% speech,” which it attributed to scheduling gaps caused by “annual leave, sickness, and a lack of trained stand-in presenters”. We noted, however, that the Licensee had not made us aware of the staffing situation affecting the station at that time. We recognise that this requirement is closely linked to the Key Commitments for “live output” discussed above – for example, when only two hours of live broadcasting occurred on Saturday 15 February, the rest of the day’s output comprised ‘Non-stop Meridian’ (a continuous automated playlist). In our monitoring, we found that the shows which were broadcast live did meet, and at times exceeded, the 30% speech requirement.

Local news and sport

The Licensee’s response to this requirement was predominantly focused on examples of where the station had been meeting other aspects of the Key Commitment in question (for example, by providing weather and travel information, local information including an events guide, and guest interviews with local people”). We were content that Meridian had met these requirements. However, concern surrounded the lack of local news provided (we found no evidence of content which could be categorised as “local news”). While the Licensee explained its process for receiving information on local events and then promoting them within shows, in general this would appear to relate to the provision of “local information including an events guide” rather than provision of a local news service.

We recognise that the requirement that “information on local sports will also feature from time to time” makes clear that this kind of content does not need to be particularly frequent. Ordinarily, over the course of a three day period we would have expected to hear at least one or two examples, particularly on a Saturday during the football and rugby season. However, we noted that the stormy weather conditions at the time, had led to a large number of fixture cancellations.

Specialist music

Ofcom noted that the shortage of presenters identified by the station had an effect on the delivery of this requirement, and the Licensee saw this as an unfortunate period of exception with regard to the provision of a commitment that it said was usually met in full. On the days assessed there were two ‘themed’ programmes broadcast, “Off the Beaten Track” and “Funky Weekend Music”, as well as a Valentine’s Day “Love Songs Special” show. We accept that these could be very loosely be categorised as catering to “specific musical tastes”, but – as the station itself acknowledges – it needs to broadcast shows which are more obviously genre-based or “specialist” in order to be fully compliant with this Key Commitment.

Conclusion

A key theme running through the Licensee's representations was that the three days of output monitored by Ofcom were an exception to the normal service provided by Meridian FM, and that this was the result of volunteer shortages and a lack of fully trained stand-in presenters to utilise. We acknowledged that the weather conditions at the time in question would have also presented an extra challenge and one faced by many community radio stations across the country, as volunteers may have been unable to reach the station.

We recognised that Meridian obviously faced particular staffing difficulties during this period, and that the absence of particular types of content was not deliberate (as a result of a desire on the part of the Licensee to move to a more music-intensive service, for example). However, we noted that at no stage was Ofcom informed by the Licensee of this situation.

Having considered the Licensee's representations, it remained our view that, during the monitoring period, Meridian FM was not delivering some of the most important aspects of its published Key Commitments, in particular, those relating to:

- the amount of live output broadcast each day;
- the amount of speech broadcast by the station;
- coverage of local news; and
- the amount of specialist music shows focussing on specific musical tastes.

We acknowledged the steps that have been taken by Meridian FM to rectify the situation following Ofcom's investigation. The Licensee told us that a new board and management team had been appointed on 17 March 2014, and since then a number of new presenters had been recruited, and measures had been taken to improve the station's local news sources and sports coverage. While we welcome these positive developments, we are nevertheless putting the Licensee on notice that, should similar issues arise in future, we may consider taking further regulatory action.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Meridian FM Radio (licence number CR206)

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 3 and 16 June 2014 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
Breaking News	Sikh Channel	08/03/2014	Crime

For more information about how Ofcom conducts investigations about content standards, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Complaints Assessed, Not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 3 and 16 June 2014 because they did not raise issues warranting investigation.

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

For more information about how Ofcom assesses conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Trending Hit Music	4Music	10/06/2014	Generally accepted standards	1
Geoff Lloyd's Hometime Show	Absolute Radio	03/06/2014	Generally accepted standards	1
BBC News	BBC 1	17/05/2014	Outside of remit / other	1
BBC News	BBC 1	01/06/2014	Outside of remit / other	1
BBC News at Six	BBC 1	05/06/2014	Outside of remit / other	1
BBC News at Six	BBC 1	09/06/2014	Gender discrimination/offence	1
BBC News at Ten	BBC 1	21/05/2014	Outside of remit / other	1
BBC News at Ten	BBC 1	05/06/2014	Outside of remit / other	1
BBC News at Ten	BBC 1	09/06/2014	Outside of remit / other	1
BBC News at Ten	BBC 1	11/06/2014	Violence and dangerous behaviour	1
Breakfast	BBC 1	23/05/2014	Generally accepted standards	1
Del Boys and Dealers	BBC 1	28/05/2014	Race discrimination/offence	4
EastEnders	BBC 1	06/06/2014	Disability discrimination/offence	1
Food Inspectors	BBC 1	05/06/2014	Animal welfare	1
Happy Valley	BBC 1	27/05/2014	Violence and dangerous behaviour	1
Question Time	BBC 1	29/05/2014	Outside of remit / other	1
Question Time	BBC 1	05/06/2014	Outside of remit / other	1
Regional News and Weather	BBC 1	09/06/2014	Outside of remit / other	1
Room 101	BBC 1	30/05/2014	Disability discrimination/offence	1
The Andrew Marr Show	BBC 1	08/06/2014	Outside of remit / other	1
The Big Questions	BBC 1	01/06/2014	Religious/Beliefs discrimination/offence	1
The One Show	BBC 1	02/06/2014	Outside of remit / other	1
EastEnders	BBC 1	06/06/2014	Scheduling	1
EastEnders / Coronation Street	BBC 1 / ITV	n/a	Materially misleading	1

EastEnders / Coronation Street	BBC 1 / ITV	n/a	Scheduling	1
Reporting Scotland	BBC 1 Scotland	04/06/2014	Outside of remit / other	1
Eggheads	BBC 2	29/05/2014	Race discrimination/offence	1
European Election Coverage	BBC 2	23/05/2014	Outside of remit / other	1
QI XL	BBC 2	11/05/2014	Race discrimination/offence	1
Springwatch	BBC 2	11/06/2014	Outside of remit / other	1
The Secret Life of Mary Poppins: A Culture Show Special	BBC 2	30/12/2013	Outside of remit / other	1
The Tropic of Cancer	BBC 2	08/06/2014	Scheduling	1
Janet's Scotland	BBC 2 Scotland	10/06/2014	Due impartiality/bias	1
Party Election Broadcast by the Britain First Party	BBC 2 Wales	09/05/2014	Crime	1
Backchat World Cup Special	BBC 3	03/06/2014	Generally accepted standards	1
Tough Young Teachers	BBC 3	22/05/2014	Offensive language	1
World Cup's 50 Greatest Moments	BBC 3	01/06/2014	Scheduling	1
World Cup's Best Ever Goals, Ever!	BBC 3	31/05/2014	Generally accepted standards	1
Great British Railway Journeys	BBC 4	11/06/2014	Outside of remit / other	1
BBC Asian Network News	BBC Asian Network	05/06/2014	Outside of remit / other	1
Vanessa Feltz	BBC London 94.9	11/06/2014	Outside of remit / other	1
BBC News	BBC News Channel	06/06/2014	Outside of remit / other	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	03/06/2014	Disability discrimination/offence	1
In Search of Ourselves, The Criminal Mind	BBC Radio 4	19/05/2014	Outside of remit / other	1
The World at One / Today	BBC Radio 4	n/a	Outside of remit / other	1
Today	BBC Radio 4	29/04/2014	Outside of remit / other	1
Consumer Team with Martin Lewis	BBC Radio 5 Live	05/06/2014	Fairness	1
European Election Coverage	BBC1 / BBC Radio 4	25/05/2014	Outside of remit / other	1
The Regular Show	Cartoon Network	28/05/2014	Scheduling	1
8 Out of 10 Cats Does Countdown	Channel 4	06/06/2014	Generally accepted standards	1
Benefits Street	Channel 4	06/01/2014	Crime	40
Benefits Street	Channel 4	06/01/2014	Materially misleading	437
Benefits Street	Channel 4	06/01/2014	Generally accepted standards	1

Benefits Street	Channel 4	13/01/2014	Materially misleading	434
Benefits Street	Channel 4	13/01/2014	Race discrimination/offence	1
Benefits Street	Channel 4	20/01/2014	Disability discrimination/offence	1
Benefits Street	Channel 4	20/01/2014	Materially misleading	13
Benefits Street	Channel 4	20/01/2014	Race discrimination/offence	1
Benefits Street	Channel 4	20/01/2014	Offensive language	1
Benefits Street	Channel 4	28/01/2014	Materially misleading	1
Benefits Street	Channel 4	10/02/2014	Disability discrimination/offence	1
Benefits Street	Channel 4	10/02/2014	Materially misleading	2
Celebrity Fifteen to One	Channel 4	06/06/2014	Materially misleading	1
Channel 4 News	Channel 4	28/05/2014	Due accuracy	1
Channel 4 News	Channel 4	29/05/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	31/05/2014	Generally accepted standards	1
Channel 4 News	Channel 4	03/06/2014	Race discrimination/offence	2
Channel 4's Comedy Gala 2014	Channel 4	05/06/2014	Race discrimination/offence	2
Channel 4's Comedy Gala 2014	Channel 4	05/06/2014	Offensive language	1
Derek	Channel 4	Various	Disability discrimination/offence	1
Dispatches	Channel 4	02/06/2014	Undue prominence	2
Mitsubishi's sponsorship of documentaries on 4	Channel 4	04/06/2014	Generally accepted standards	1
Mr Drew's School for Boys	Channel 4	06/05/2014	Under 18s in programmes	1
My Granny the Escort	Channel 4	29/05/2014	Generally accepted standards	1
One Born Every Minute (trailer)	Channel 4	10/06/2014	Scheduling	1
Posh Pawn	Channel 4	22/05/2014	Materially misleading	1
The Complainers	Channel 4	10/06/2014	Materially misleading	1
The Island with Bear Grylls	Channel 4	12/05/2014	Animal welfare	2
The Island with Bear Grylls	Channel 4	02/06/2014	Gender discrimination/offence	1
The Island with Bear Grylls	Channel 4	02/06/2014	Animal welfare	1
The Island with Bear Grylls	Channel 4	05/06/2014	Animal welfare	1
Classic Car Rescue	Channel 5	19/05/2014	Offensive language	3
Eddie Stobart's Excellent Adventures	Channel 5	11/06/2014	Offensive language	1
Highways Agency Public Information film	Channel 5	18/03/2014	Race discrimination/offence	1

Highways Agency Public Information film	Channel 5	21/03/2014	Materially misleading	1
Jack Taylor: The Priest	Channel 5	28/05/2014	Religious/Beliefs discrimination/offence	1
Police Interceptors	Channel 5	07/06/2014	Scheduling	1
Stand By Your Man (trailer)	Channel 5	30/05/2014	Sexual material	1
Supercasino.com's sponsorship of Big Brother	Channel 5	05/06/2014	Sponsorship	1
The Dam Busters	Channel 5	26/05/2014	Race discrimination/offence	1
Jamie Crick	Classic FM	15/05/2014	Generally accepted standards	1
24 Hours to Go Broke	Dave	28/05/2014	Generally accepted standards	1
24 Hours to Go Broke	Dave	04/06/2014	Generally accepted standards	1
Competition	Dave	05/06/2014	Competitions	1
Ice Pilot (trailer)	Discovery History	07/06/2014	Nudity	1
Programming	Food Network	02/06/2014	Outside of remit / other	1
Cold Justice (trailer)	Good Food	03/06/2014	Scheduling	1
Ghost Hunters (trailer)	Good Food	01/06/2014	Scheduling	1
Adventure Time	ITV	27/05/2014	Offensive language	1
Britain's Got Talent	ITV	31/05/2014	Scheduling	2
Britain's Got Talent	ITV	31/05/2014	Voting	1
Britain's Got Talent	ITV	05/06/2014	Competitions	1
Britain's Got Talent	ITV	07/06/2014	Religious/Beliefs discrimination/offence	1
Britain's Got Talent	ITV	07/06/2014	Sexual orientation discrimination/offence	1
Britain's Got Talent	ITV	07/06/2014	Generally accepted standards	7
Britain's Got Talent	ITV	07/06/2014	Scheduling	3
Britain's Got Talent	ITV	07/06/2014	Voting	3
Coronation Street	ITV	29/05/2014	Outside of remit / other	1
Coronation Street	ITV	09/06/2014	Scheduling	1
Coronation Street	ITV	11/06/2014	Scheduling	1
Emmerdale	ITV	19/05/2014	Disability discrimination/offence	1
Emmerdale	ITV	20/05/2014	Generally accepted standards	1
Emmerdale	ITV	20/05/2014	Scheduling	1
Emmerdale	ITV	22/05/2014	Generally accepted standards	1
Emmerdale	ITV	10/06/2014	Generally accepted standards	1
Emmerdale	ITV	10/06/2014	Harm	1
French Open Tennis Live	ITV	08/06/2014	Outside of remit / other	3

Good Morning Britain	ITV	29/05/2014	Generally accepted standards	2
Good Morning Britain	ITV	30/05/2014	Competitions	1
International Football	ITV	30/05/2014	Competitions	1
International Football	ITV	04/06/2014	Disability discrimination/offence	1
International Football	ITV	04/06/2014	Advertising content	1
International Football	ITV	04/06/2014	Competitions	1
International Football	ITV	07/06/2014	Competitions	1
International Football (trailer)	ITV	Various	Materially misleading	1
ITV News	ITV	09/06/2014	Outside of remit / other	1
ITV News	ITV	08/06/2014	Generally accepted standards	1
ITV News	ITV	10/06/2014	Generally accepted standards	1
Loose Women	ITV	28/05/2014	Gender discrimination/offence	1
Loose Women	ITV	29/05/2014	Gender discrimination/offence	1
Lorraine	ITV	11/06/2014	Offensive language	1
Morrisons' sponsorship of Britain's Got Talent	ITV	28/05/2014	Generally accepted standards	1
Off Their Rockers	ITV	31/05/2014	Generally accepted standards	1
Off Their Rockers	ITV	31/05/2014	Nudity	1
The Chase	ITV	04/06/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV	29/05/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV	30/05/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV	10/06/2014	Advertising scheduling	1
The Jeremy Kyle Show	ITV	10/06/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV	11/06/2014	Generally accepted standards	1
This Morning	ITV	30/05/2014	Generally accepted standards	1
This Morning	ITV	03/06/2014	Generally accepted standards	1
This Morning	ITV	05/06/2014	Generally accepted standards	2
World Cup Epic Fails	ITV	31/05/2014	Race discrimination/offence	3
World Cup Epic Fails	ITV	31/05/2014	Generally accepted standards	1
World Cup Live 2014	ITV	12/06/2014	Generally accepted standards	1
You've Been Framed!	ITV	31/05/2014	Nudity	1

ITV News Granada Reports	ITV Granada	23/05/2014	Due impartiality/bias	1
ITV News Meridian	ITV Meridian	23/05/2014	Due accuracy	1
Celebrity Juice	ITV2	13/05/2014	Generally accepted standards	1
Celebrity Juice	ITV2	17/05/2014	Generally accepted standards	1
Celebrity Juice	ITV2	27/05/2014	Generally accepted standards	1
Celebrity Juice	ITV2	04/06/2014	Generally accepted standards	1
Celebrity Juice	ITV2	05/06/2014	Generally accepted standards	1
Coronation Street	ITV2	29/05/2014	Scheduling	1
Dinner Date	ITV2	02/06/2014	Sexual orientation discrimination/offence	1
I Wanna Marry Harry	ITV2	10/06/2014	Generally accepted standards	1
Release the Hounds	ITV2	11/06/2014	Animal welfare	1
Tom Daly Goes Global	ITV2	10/04/2014	Promotion of products/services	1
Live @ Kiss	Kiss FM	04/06/2014	Generally accepted standards	1
Ian Payne with Scores	LBC 97.3 FM	24/05/2014	Race discrimination/offence	1
Nick Ferrari	LBC 97.3 FM	03/06/2014	Religious/Beliefs discrimination/offence	1
Steve Allen	LBC 97.3 FM	27/05/2014	Disability discrimination/offence	1
The Morning News with Lisa Aziz	LBC 97.3 FM	21/05/2014	Due impartiality/bias	1
The Worst Jobs in History	More4	31/05/2014	Religious/Beliefs discrimination/offence	1
Catfish: The TV Show	MTV	02/06/2014	Violence and dangerous behaviour	1
Ex On the Beach	MTV	16/05/2014	Offensive language	2
The Greenhouse	Nickelodeon HD	28/05/2014	Scheduling	1
Live Discussion	Radio 1458	18/05/2014	Generally accepted standards	1
Keiser Report	RT	08/05/2014	Generally accepted standards	1
Demolition Man	Sky Action	03/06/2014	Product placement	1
Penny Dreadful	Sky Atlantic	31/05/2014	Offensive language	1
Penny Dreadful	Sky Atlantic	03/06/2014	Generally accepted standards	1
Sky News	Sky News	29/04/2014	Under 18s in programmes	2
Sky News	Sky News	03/06/2014	Religious/Beliefs discrimination/offence	1
Sunrise	Sky News	09/06/2014	Offensive language	1
Sunrise	Sky News	10/06/2014	Generally accepted standards	1
Football League	Sky Sports 1	13/05/2014	Offensive language	2

Hadrat Abu Bakr Siddique: The Greatest Friend of Prophet Muhammad	Ummah Channel	02/05/2014	Religious/Beliefs discrimination/offence	1
Amount of football	Various	n/a	Outside of remit / other	1
Late scheduling of programmes	Various	n/a	Outside of remit / other	1
Programming	Various	n/a	Religious/Beliefs discrimination/offence	1

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

For more information about how Ofcom conducts investigations about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.

Licensee	Categories
Community Broadcast Initiative Tyneside Limited	Key commitments
KLFM Limited	Other

Investigations List

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

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

Here are alphabetical lists of new investigations launched between 5 and 18 June 2014.

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

Programme	Broadcaster	Transmission date
Adam's Apples	ABN	16 May 2014
Advertising minutage	ABN	Various
Going to the Dogs	Channel 4	12 June 2014
Icche Ghuri (sponsorship credits)	NTV	6 May 2014
Tonight: Britain's Young Drinkers	ITV	17 April 2014
Young and Gifted	ATN Bangla UK	4 May 2014

For more information about how Ofcom assesses complaints and conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

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

Programme	Broadcaster	Transmission date
Beware! Cowboy Builders Abroad	Channel 5	17 April 2014
Granada Reports	ITV	16 April 2014
The Nightmare Neighbour Next Door	Channel 5	15 April 2014

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.