

# **Ofcom Broadcast and On Demand Bulletin**

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## Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>. 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 Act<sup>2</sup>. Ofcom must include these standards in a code, codes or rules. These are listed below.

The Broadcast and On Demand Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes and rules 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 the ASA on the basis of their rules and guidance for advertising content on ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”) for content broadcast on television and radio services.
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in television 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 for on television and radio services. 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 advertising<sup>3</sup>.
- 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) Ofcom’s [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS. Ofcom considers sanctions in relation to advertising content on ODPS on referral by the Advertising Standards Authority (“ASA”), the co-regulator of ODPS for advertising or may do so as a concurrent regulator.

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

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

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

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

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 and On Demand Bulletin may therefore cause offence.**

## Note to Broadcasters and On Demand Service Providers

### Format of Ofcom's Broadcast and On Demand Bulletin

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Ofcom's fortnightly Bulletin has been re-named 'Ofcom's Broadcast and On Demand Bulletin'. It will now include Ofcom's decisions on complaints and investigations about editorial content on video on demand services, as well as broadcast cases.

This change reflects that from 1 January 2016 Ofcom is the sole regulator for editorial content (programming) on UK 'video on demand' services. This follows the closure of the Authority for Television On Demand (ATVOD). The Advertising Standards Authority will continue to act as our co-regulator for advertising content on video on demand services.

Further information about the regulation of video on demand services can be found on Ofcom's website as follows:

- For video on demand service providers:  
<http://stakeholders.ofcom.org.uk/broadcasting/on-demand/>
- For consumers: <http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/video-on-demand-services>

On 18 December 2015, we published the document 'Future regulation of on-demand programme services' which summarises the arrangements Ofcom has in place from 1 January 2016. This document, which also consults on two substantive proposals regarding our investigation procedures and the charging of fees, can be found here: [http://stakeholders.ofcom.org.uk/consultations/vod\\_procedures](http://stakeholders.ofcom.org.uk/consultations/vod_procedures)

## Broadcast Standards cases

### In Breach

#### Impractical Jokers

Comedy Central, 6 August 2015, 16:00

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#### Introduction

Comedy Central is a channel featuring comedy series and stand-up comedy aimed at a primarily adult audience. The licence for Comedy Central is held by Paramount UK Partnership (“Paramount UK” or “the Licensee”).

*Impractical Jokers* is a hidden camera practical joke reality series, following four comedians, as they perform various pranks on members of the public.

During monitoring of an episode of *Impractical Jokers* shown before the watershed in the school holiday period we noted that at certain points when bleeped offensive language was used in the programme, the following subtitles were shown to viewers:

*“He’s gonna beat the f\*\*\*ing s\*\*t out of me”.*  
*“God, I’m f\*\*\*ing shaking”.*

Ofcom considered the subtitles raised issues warranting investigation under Rule 1.3 of the Code which states:

“Children must...be protected by appropriate scheduling from material that is unsuitable for them”.

Ofcom therefore asked the Licensee how the programme complied with this rule.

#### Response

Paramount UK stated that the broadcast in subtitles of partially obscured expletives was a “regrettable oversight by our Compliance team”. The Licensee added that following contact from Ofcom about this issue, the Licensee had withdrawn all 72 episodes of *Impractical Jokers* from UK daytime schedules pending a review of their subtitling. Paramount UK also stated its intention to review its relevant procedures and re-train staff to avoid recurrence.

#### 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 “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

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

Ofcom first assessed whether the broadcast contained material unsuitable for children. We noted that a three minute sequence which was repeated on one occasion during the programme contained two bleeped uses of the word “fucking”. Although the word was not audible in either case, we considered the accompanying subtitle (“f\*\*\*ing”) made clear the language used. Ofcom’s research on offensive language<sup>1</sup> notes that the word “fucking” is considered to be among the most offensive by audiences. In our view, the repeated display of partially obscured examples of the most offensive language, particularly because they were broadcast at the same time as bleeping on the programme’s audio track, made clear the specific offensive language being used, and were unsuitable for children.

Ofcom then went on to consider whether this material was appropriately scheduled. Appropriate scheduling is judged by a number of different factors including: the likely number and age range of the audience; the start and finish time of the programme; and likely audience expectations.

Although *Impractical Jokers* is aimed predominantly at an adult audience, we noted that, in this case, it was broadcast in the afternoon, and therefore well before the watershed, during school holidays, when there was a significant likelihood children would have been available to view. As a result, we did not consider that material in this case, featuring subtitles with only partially obscured examples of the most offensive language, had been appropriately scheduled.

We noted both that the Licensee had apologised for the error and the steps it taken to ensure that it the issue was not repeated. Nevertheless, for the reasons set out above, we concluded that the broadcast was in breach of Rule 1.3.

### **Breach of Rule 1.3**

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

## Broadcast Licence Conditions cases

### Broadcasting licensees' late and non-payment of licence fees

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Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles<sup>1</sup>. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables<sup>2</sup>.

The payment of a licence fee is a requirement of a broadcasting licence<sup>3</sup>. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

#### In Breach

The following licensees failed to pay their annual licence fees by the required payment date. These licensees have therefore breached their broadcast licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

Licensee	Licence Number	Service Name
Deveron FM Limited	CR000265BA	Deveron FM
South Eastern Regional College	CR000127BA	Bangor FM
Wirral University Teaching Hospital NHS Foundation Trust	LRSL000198BA	Radio Clatterbridge

The following licensee failed to pay its annual licence fee by the required payment date. This licensee has therefore been found **in breach** of Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licence.

In the specific circumstances of the following case, the non-payment of the fee was considered by Ofcom to amount to a serious licence breach. **Ofcom is therefore putting this licensee on notice that the breach is being considered for the imposition of a statutory sanction, which may include a financial penalty.**

Licensee	Licence Number	Service Name
1 Ummah FM Community Interest Company	CR000214BA	1 Ummah FM

#### Breaches of Licence Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licences.

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<sup>1</sup> [http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging\\_principles.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf)

<sup>2</sup> [http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff\\_Tables\\_2015\\_16.pdf](http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff_Tables_2015_16.pdf)

<sup>3</sup> As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.



## Resolved

### Provision of information: relevant turnover submission

*Abu Dhabi Media Company PJSC*

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#### Introduction

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Each licensee is required to submit to Ofcom an annual statement of its Relevant Turnover for the previous calendar year. This provision of information is a licence requirement. As well as enabling Ofcom to determine the fees for the following year, the information is used by Ofcom to fulfil its market reporting obligations.

Failure by a licensee to submit an annual Relevant Turnover return when required represents a serious and fundamental breach of a broadcast licence, as the absence of the information contained in the return means that Ofcom is unable properly to carry out its regulatory duties.

Abu Dhabi Media Company PJSC failed to submit its Relevant Turnover return to Ofcom by the deadline specified.

Ofcom considered that this raised issues warranting investigation under Licence Condition 12(1) which states:

"The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, estimates, returns, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act and in particular (but without prejudice to the generality of the foregoing):

- (a) a declaration as to the Licensee's corporate structure in such form and at such times as Ofcom shall specify;
- (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee is on any ground a disqualified person by virtue of any of the provisions in Section 143 (5) of the 1996 Act and/or Schedule 2 to the 1990 Act or whether the requirements imposed by or under Schedule 14 to the Communications Act are contravened in relation to the Licensee's holding of the Licence".

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<sup>8</sup> Statement of Charging Principles - [http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging\\_principles.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf)

## Decision

The following licensee failed to submit its Relevant Turnover return in accordance with the original deadline, but subsequently submitted a late return. We therefore consider the matter **resolved**.

<b>Licensee</b>	<b>Service Name</b>	<b>Licence Number</b>
Abu Dhabi Media Company PJSC	Abu Dhabi TV	TLCS001660BA

## Resolved

## Fairness and Privacy cases

### Not Upheld

#### Complaint by Mr David Hamilton

*The Dog Factory, BBC 1, 19 May 2015, 22:45*

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#### Summary

Ofcom has not upheld Mr Hamilton's complaint, made on his behalf by Cooper Wilkinson Solicitors ("CW Solicitors"), of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

The programme, examined animal welfare concerns in the dog trade in Scotland and Northern Ireland and sent undercover reporters to film footage of dog sellers, distributors, and breeders. It featured an investigation into Furnish Kennels, which was owned by the complainant, Mr Hamilton, and his brother.

Ofcom found that:

- Mr Hamilton had a legitimate expectation of privacy, albeit limited, in the obtaining of the material of his business premises, which was not publically accessible, without his consent. However, the public interest in obtaining the material outweighed Mr Hamilton's limited expectation of privacy. Therefore, Mr Hamilton's privacy was not unwarrantably infringed in connection with the obtaining of the material included in the programme.
- Mr Hamilton had a legitimate expectation of privacy in relation to the broadcast of the footage of his business, Furnish Kennels. However, the public interest in broadcasting the material outweighed Mr Hamilton's limited expectation of privacy. Therefore, Mr Hamilton's privacy was not unwarrantably infringed in the programme as broadcast.

#### Introduction and programme summary

On 19 May 2015, BBC 1 broadcast *The Dog Factory*, a documentary which examined animal welfare concerns in the dog trade in Scotland and Northern Ireland. The programme sent undercover reporters to film footage of dog sellers, distributors, and breeders and featured a panel of three experts (a veterinarian, an animal welfare law expert, and a canine behaviour expert) who gave their opinion on the welfare of the animals depicted in the footage. It featured an investigation into Furnish Kennels, which was owned by the complainant, Mr Hamilton, and his brother.

During the section of the programme which concerned Furnish Kennels, the presenter stated:

*"What I was about to discover, many people didn't think existed in the UK. They were wrong. We're talking scale. Just how big are the UK's largest puppy farms? My journey to the answer begins in Northern Ireland's Stormont Parliament. In 2010, the country's Department of Agriculture and Rural Development, known as DARD, decided updated legislation was necessary to regulate commercial dog-breeding. It was pretty standard, yet not everyone was happy about it".*

At this point, the programme showed an official report on the Welfare of Animals Bill, which listed witnesses including the complainant, Mr Hamilton. The presenter then said:

*“A group of dog breeders called Canine Breeders Ireland objected to nearly every aspect of the legislation. They didn’t want an annual licence, they wanted a five-year one. Imposing limits on the number of dogs they could keep, they said, was disgusting. Dogs didn’t need daily exercise, they could do that themselves in the kennels. A maximum of six litters per bitch was too low, they said, they want ten. A cleaning schedule was over-regulation; drinking water didn’t need to be changed daily; and they could see nothing wrong with dogs eating food off the floor, as long as it was clean. Representing the Canine Breeders Ireland are these men: [a photograph of three men was shown] David Hamilton, in the centre, his brother Jonathan, on the right, and fellow dog breeder Gerry Smyth”.*

The programme then showed footage from a DARD committee meeting, at which Mr Hamilton testified on behalf of the Canine Breeders Ireland, stating:

*“The term puppy farmer...it’s a derogatory term. Cruelty to animals is a crime and we are licensed breeders and we represent licensed breeders. We think it’s an over-hyped issue”.*

The presenter then stated:

*“In Northern Ireland alone, the dog breeding industry is worth 160 million pounds”.*

Asked at the meeting whether he saw any difference between breeding dogs and breeding cattle or sheep, Mr Hamilton answered:

*“Well they’re living animals and they’re bred...for profit, whether people like that or not, the distinction is, no, no”.*

The presenter then said:

*“The Hamiltons own this place: Furnish Kennels in Fivemiletown [an aerial photograph of Furnish Kennels was shown]. It claims to be the largest licensed dog breeding establishment in the UK. Although it operates on a profit-basis, they state animal welfare is their priority. I managed to find a document which shows that, in 2012, between them the brothers were licensed to keep a lot of dogs there, all 534 of them. Surely, that many dogs on one site would make adhering to animal welfare legislation more of a challenge. The USPCA told me that over the years they had had numerous reports of sick dogs being sold which had come from Furnish Kennels. It’s closed to the public, so the only way I’m going to find out what’s happening there, is to speak with someone on the inside”.*

The presenter then interviewed Mr David Bailey, a former DARD veterinarian who had worked for the Hamiltons for three years. Mr Bailey set out the size of the breeding operation at Furnish Kennels and discussed Mr Hamilton’s reluctance to keep a log of every dog kept at the kennel. Mr Bailey stated:

*“I had my suspicions why he didn’t want me or others to know the numbers of animals that he had...The suspicion being that he didn’t want it publicised or made clear to anyone for any reason that maybe a bitch was being bred from*

*three of four times a year, that the number of deaths that puppies would die was unacceptably high”.*

The presenter stated:

*“Sick and diseased puppies were a constant concern, as these emails from David Hamilton to Bailey show [emails from Mr Hamilton to Mr Bailey were shown on screen]. For the Hamilton brothers every dead dog or bitch unable to produce is a loss of revenue. Agricultural-style farming began to be applied”.*

Mr Bailey then stated:

*“It was like a production facility that you would expect in...a bad pig raising facility. Every animal in the premises was given an anti-biotic injection every week and then we would change the anti-biotic every month...because we could not control the infections”.*

With regard to external parasite control, Mr Bailey stated:

*“They’re using a substance, which is for pigs really, it’s used to control mange in pigs, it’s quite heavy-duty stuff, and they just had a big bucket of it and every dog got a dunking once a week”.*

Mr Bailey then stated that Furnish Kennels had asked him for drugs to euthanise dogs, which he had not provided. He further stated that Mr Hamilton had asked him to support an application for a firearm for the purpose of putting dogs down, which he had not supported. The programme then showed a letter from the Police Service of Northern Ireland to Mr Hamilton rejecting his application for a firearm, noting that a handgun was not a “*slaughtering instrument*” and that it was illegal to shoot dogs. The presenter then explained that Mr Bailey had stopped working for the Hamiltons because “*they were in it solely for the cash*”.

The presenter went on to state:

*“The experience of the USPCA [Ulster Society for the Prevention of Cruelty to Animals], the evidence given to me by David Bailey, all suggests serious breaches in animal welfare at Furnish Kennels, but it’s the scale of the operation that I’m interested in. Everything I’ve heard points to Furnish Kennels operating like a factory, a dog factory. I want to capture it on camera. With the kennels closed to outside guests, I’m going to have to choose the timing of my visit there very carefully”.*

The programme then showed the presenter and two undercover investigators in the early hours of the morning planning to enter the Furnish Kennels’ premises:

Investigator: *“These main sheds here, we believe, is where the actual puppies are bred, that’s the main puppy farm. Our biggest problem is that’s where the actual occupants of the whole yard actually live.*

Presenter: *“This is big business for these guys. They come out and find, you know, a few of us in their yard.*

Investigator: *They’re not going to be happy. So we’re there to try and get you the evidence that we need, but at the same time we’re not going to compromise ourselves”.*

Presenter: *We travel the few short miles to the farm. It's so dark, the only way to film is by switching the camera to night vision... This is what we believe to be the heart of the operation, just up this field, in several barns, is what we understand to be a large number of dogs. If we're talking about puppy farming, then this is it".*

The programme then showed footage filmed at Furnish Kennels in and around the buildings where dogs were kept. The presenter stated:

*"The noise is deafening. Hundreds of dogs. Row, upon row of cages. Every single one of these animals a breeding bitch for the Hamiltons' dog factory. The scale is unimaginable".*

The presenter went on to describe the dogs' sleeping areas and the automatic feeding system, which she referred to as *"similar to ones used in factory farming, it's a labour-saving device and reduces the need for human contact"*. The presenter described the facilities the puppies were held in as looking like *"old, disused trailers"* and then stated:

*"This is, in the authorities' eyes, a perfectly legitimate licensed dog breeding operation. It just happens to look like a farm, a dog farm, a dog factory. I struggle to see how the legislation allows a place like this, but I'm no expert".*

The programme then showed the panel of experts discussing the footage filmed at Furnish Kennels, who stated that they were genuinely shocked. One expert stated that *"this is a lower standard than would be required of agricultural animals in an intensive system"*, while another opined that *"it's an extraordinary and abhorrent mixture of the worst of factory farming and dog breeding"*, to which the first added: *"it calls into question the whole credibility and integrity of the legislative regime"*.

At this point, the presenter read out a statement from Mr Hamilton:

*"[The] premises are maintained and run in accordance with all relevant legislation and regulations in an entirely open and transparent manner. All dogs are under the supervision of a nominated Veterinary Surgeon. All recognised protocols are in place".*

The presenter then read out a statement from the local council responsible for inspecting the facility:

*"They told us that the kennels was now called the UK Dog Breeding Academy. They inspected the premises four weeks ago and found no evidence or mortality...no puppies were found to be kept in trailers on site. It was their opinion that the premises are kept in very good condition and complied with legislation".*

The presenter then interviewed the Chief Veterinary Officer of the Scottish Government, who stated that she was upset at the conditions at Furnish Kennels:

*"It was barbaric. It was a production line. It was using animals as a commodity".*

The programme ended stating:

*“Since our filming at Furnish Kennels in Fivemiletown, council inspectors have paid two unannounced visits to the premises. They found no animal welfare issues...concluding the business was operating within the law”.*

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

- a) CW Solicitors complained that Mr Hamilton’s privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the programme makers filmed Mr Hamilton’s business without his consent.
- b) CW Solicitors also complained that Mr Hamilton’s privacy was unwarrantably infringed in the programme as broadcast because the programme included footage of Mr Hamilton’s business without his consent.

By way of background, CW Solicitors said that following the broadcast, Mr Hamilton received threats to his life, was under police protection, and premises belonging to a relative were subject to an arson attack. It submitted that Mr Hamilton’s business was a legal and regulated establishment.

In response, the BBC said that dogs were literally being “farmed” and the programme makers therefore set out to investigate the legislation and safeguards in place in relation to breeding dogs in the UK and consider whether they were fit for purpose or sufficient to protect the welfare of dogs.

The BBC said that Furnish Kennels housed hundreds of breeding bitches and puppies in the same location. It pointed out that Furnish Kennels claimed on its website that it was “now recognised as the largest dog breeding establishment in the UK” and that “excellent animal welfare and high husbandry standards take priority for our animals”. However, the BBC said that during the course of their investigation, the programme makers became aware that the USPCA had “serious and ongoing animal welfare concerns about the way that Furnish Kennels was run”. The BBC said that the USPCA believed that Furnish Kennels was “operating on an intensive agricultural basis to the detriment of the physical wellbeing and mental health of the breeding bitches and their puppies”.

Therefore, the BBC explained, the programme makers had subsequently gathered extensive evidence which led them to conclude that although Furnish Kennels had the necessary operating licence, conditions within the premises were insufficient to meet the basic needs of the dogs, as set out in animal welfare law<sup>9</sup> or the Five Freedoms<sup>10</sup>, which it explained had been established by animal welfare organisations as essential for any captive animal. It said that the programme makers had therefore considered there was a clear public interest in filming inside Furnish Kennels to establish that: it was being run on an agricultural basis which seriously compromised animal welfare; the scale of the operation was so extensive that the fundamental needs of the animals were not being met; and, the operators were showing a significant disregard for the welfare of the breeding bitches and their puppies.

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<sup>9</sup> <http://www.legislation.gov.uk/ia/2011/16/part/2>.

<sup>10</sup> <http://www.bva.co.uk/News-campaigns-and-policy/Policy/Ethics-and-welfare/Animal-welfare/>  
<https://www.gov.uk/government/groups/farm-animal-welfare-committee-fawc>  
<http://www.rspca.org.uk/search?searchKey=five+freedoms&x=0&y=0>

The BBC said that it could not see how filming at Furnish Kennels could result in any infringement of Mr Hamilton's privacy, either in the making or the broadcast of the programme. It questioned whether it was possible to infringe the privacy of an individual "by filming inside a property occupied solely by dogs and where none of the material gathered or broadcast featured the individual in person or anything he might reasonably consider to be inherently personal or private".

It said that the purpose of filming was to record the conditions in which the dogs were being kept at Furnish Kennels, and that it was expected that Mr Hamilton would not be present and that this was the case. Further, it said that the filming did not take place in Mr Hamilton's home or any other location which might reasonably be regarded as intrinsically private, even in his absence.

The BBC said that, in any case, should Ofcom consider that Mr Hamilton's privacy was infringed by filming inside premises he owned or broadcasting that material, it would regard any such infringement to be warranted in the public interest.

The BBC said that the filming was undertaken "only after the programme makers had gathered extensive evidence which suggested that the scale of operations at Furnish Kennels seriously compromised the welfare of the dogs and puppies kept there". The BBC listed the kind of information it said was uncovered by the programme makers and provided relevant material to Ofcom in support this:

- Documented evidence showing the size and scale of the business.
- Documented evidence of poor biosecurity, high infection rates and high mortality rates. This included: email correspondence from Mr Hamilton which referred, for example, to "lots of mortalities in puppy shed" and "Death toll on puppies was very bad today"; correspondence with a vet who said "because the biosecurity is sub-optimal there will be a lot of disease on the farm"; and, laboratory reports confirming puppy mortality and the presence of infections.
- Documented evidence that Mr Hamilton sought and was denied a firearm to be used for "the humane destruction of dogs".
- Documented evidence suggesting dogs were being electrocuted and testimonial evidence suggesting this was as a form of euthanasia.
- Documented evidence that Mr Hamilton considered using ultra-violet light to artificially promote fertility, a practice associated with farming chickens.
- Testimony from David Bailey, a former Department of Agriculture vet who had worked at Furnish Kennels, and who had serious animal welfare concerns about the operation there.
- Testimony from USPCA Chief Executive, Mr Stephen Philpott, who spoke of serious animal welfare concerns at Furnish Kennels dating from 2004 to the present day. He also confirmed that the USPCA had received numerous complaints from people who had bought puppies bred by the Hamiltons which were sick or had genetic problems, and that the Hamiltons failed to microchip all their dogs, as required by law.



- Testimony from an undercover animal welfare investigator who raised concerns about: the number of dogs; the conditions in which the breeding bitches and puppies were kept; the frequency with which the dogs were bred; and, the lack of socialisation.
- Evidence given by Mr Hamilton to the Committee for Agriculture and Rural Development in October 2010 in which he confirmed his view that there is no distinction between breeding dogs and breeding cattle or sheep.

The BBC said that given the above, the programme makers therefore believed there was a clear public interest in filming the conditions at Furnish Kennels. It explained that filming had taken place on two separate occasions and said that it confirmed that there were serious animal welfare issues; it listed these as below:

- Hundreds of breeding bitches housed in “battery farm” conditions; rows of linked, identical pens on concrete floors with bedding made from used plastic oil containers. The BBC said that this system prevented dogs from learning natural, social behaviour.
- Breeding bitches kept in barns with no natural light.
- The use of metal dividers between pens, exacerbating any noise and prompting continual barking, which the BBC said animal experts believed could damage dogs’ hearing.
- Breeding bitches unable to get rest or respite from the constant barking of other dogs.
- Automatic feeding systems for breeding bitches. The BBC explained that this was an agricultural system used for cattle and pigs and in the battery farming of poultry. It said that it encouraged dogs to graze and prevented them from learning to eat or behave in a natural way for companion pets.
- Puppies of varying age and breed kept in make-shift lorry trailers with no natural light.
- Puppies separated from their mothers.
- Puppies housed in pens with no separate sleeping or eating area resulting in puppies eating and sleeping surrounded by their own faeces.
- Puppies of different ages and breeds kept in the same pens, a situation the BBC said was known to be highly conducive to cross-infection and contamination.
- Puppies kept in a chaotic, unpredictable environment, which the BBC said prevented puppies from learning normal habits and social skills which it said could lead to anxiety and stress.

The BBC said that the above was evidence which confirmed that Furnish Kennels was “...operating on an agricultural scale, applying farming principles to the breeding of companion pets”. It said that: “The conditions were clearly detrimental to the physical wellbeing and mental health of the breeding bitches and the

puppies which were intended to be sold to the public as domestic pets, and breached animal welfare legislation”.

The BBC further pointed out that the programme makers had showed the footage filmed to a number of independent experts who confirmed that, on the basis of what they saw, conditions at Furnish Kennels were “wholly unacceptable”. It gave various examples of their comments. For example, Ms Sheila Voas, the Chief Veterinary officer of the Scottish Government said “It was horrible, absolutely horrible. The standard of welfare was very poor...”.

Given the above, the BBC said therefore the filming and subsequent broadcast of the material was in the public interest because:

“...it clearly demonstrated that the existing licencing process and regulation is wholly inadequate to safeguard the wellbeing of pets kept and bred in operations such as Furnish Kennels where the animals are farmed on an agricultural basis. The footage showed that the existing legislation is not fit for purpose and is failing to protect pets which are bred on the same basis as cattle and sheep”.

The BBC said that the programme makers had gathered substantial *prima facie* evidence which provided a clear public interest justification for filming at Furnish Kennels. It said that the comments and reaction of experts who were shown the material filmed inside the kennels confirmed there were significant concerns about the conditions there and highlighted the failure of the regulations and legislation to provide the necessary safeguards for dogs bred on such an agricultural scale.

### **Ofcom’s Preliminary View**

Ofcom prepared a Preliminary View in this case which was not to uphold the complaint. Both parties were given the opportunity to make representations on the Preliminary View, however, neither party chose to do so.

### **Decision**

Ofcom’s statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

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

In reaching this Decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast and transcript, both parties’ written submissions, and supporting documentation.

In Ofcom’s view, the individual’s right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is

necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

- a) CW Solicitors complained that Mr Hamilton's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the programme makers filmed Mr Hamilton's business without his consent.

In considering this part of the complaint, we had regard to Practices 8.5 and 8.9 of the Code. Practice 8.5 states that any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted. Practice 8.9 states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

Ofcom began by assessing whether or not Mr Hamilton had a legitimate expectation of privacy with regard to the circumstances in which footage of his business premises was filmed for inclusion in the programme. The Code's statement on the meaning of "legitimate expectation of privacy" makes clear that such an expectation:

"...will vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place..."

In considering whether Mr Hamilton had a legitimate expectation of privacy, we first considered the nature of the material obtained.

We noted that Mr Hamilton's complaint related to the obtaining of footage of the premises of Furnish Kennels, a business owned by him, which had been filmed and subsequently included in the programme without his consent. The programme showed the presenter and two undercover investigators in the early hours of the morning planning to enter the Furnish Kennels' premises. They were shown examining an aerial map of the property and one of the investigators pointed at the map and said: "*These main sheds here, we believe it's where the actual puppies are bred. That's the main puppy farm. Our biggest problem is that's where the actual occupants of the whole yard actually live*". The presenter and the two investigators were then shown arriving at the property in the dark and the presenter explained: "*It's so dark, the only way to film is by switching the camera to night vision*". The programme then included footage filmed at Furnish Kennels in and around the buildings where dogs were kept. Large numbers of dogs in cages were shown.

The buildings holding the dogs appeared to be unlocked, enabling access to the presenter and investigators. However, we also noted that these buildings were on private property and were clearly not intended to be accessible to the general public. We therefore considered that the circumstances in which Mr Hamilton's property was filmed could amount to him having a legitimate expectation of privacy.

However, we also considered that a number of factors limited Mr Hamilton's expectation of privacy in the particular circumstances of this case. Although we understood Mr Hamilton's home was located at the property, it appeared that the material recorded, only included footage of the buildings housing the dogs and of dogs in cages. We also noted that no footage of his office appeared to have been filmed, which may contain, for example, documents confidential or sensitive to Mr Hamilton and/or his business. We therefore did not consider that the material recorded included any images or information of a particularly sensitive or private nature to Mr Hamilton.

Having come to the view that Mr Hamilton had a legitimate expectation of privacy, albeit limited, in relation to the filming of the footage of his business, and given that it was obtained without his consent, we considered that his privacy was infringed in the circumstances. Therefore, Ofcom went on to consider whether the infringement of Mr Hamilton's expectation of privacy was warranted.

The Code states that "warranted" has a particular meaning. It means that, where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest would include revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations or disclosing incompetence that affects the public.

From the BBC's submissions set out above, we noted that the BBC said that filming at Furnish Kennels was undertaken "only after the programme makers had gathered extensive evidence which suggested that the scale of operations at Furnish Kennels seriously compromised the welfare of the dogs and puppies kept there". The BBC listed the kind of information it said was uncovered by the programme makers and provided relevant material to Ofcom in support of this (as set out in detail above in the "Summary of the complaint and the broadcaster's response" section). This included, for example: evidence showing the size and scale of the business; testimony from the USPCA's Chief Executive, who spoke of serious animal welfare concerns at Furnish Kennels; and, testimony from a former Department of Agriculture vet who had worked at Furnish Kennels, and who had serious animal welfare concerns about the operation there. After careful consideration of the information provided by the BBC, we took the view that it demonstrated a genuine public interest justification in the programme makers' decision to gather information on Furnish Kennels because it appeared there was a reasonable likelihood that filming at the property would uncover further evidence relating to the condition the dogs were being kept in at Furnish Kennels and that this would likely raise questions about whether the current legislation was sufficient to protect the welfare of dogs being bred in conditions such as those at Furnish Kennels.

On this basis, and notwithstanding the fact that Mr Hamilton did not consent to the filming, Ofcom considered that any infringement of his legitimate, but limited, expectation of privacy in connection with the obtaining of the material was warranted and proportionate in the particular circumstances of this case.

Having taken all the above factors into account, Ofcom considered that, on balance, the broadcaster's right to freedom of expression and the public interest

in obtaining footage of Furnish Kennels outweighed Mr Hamilton's limited expectation of privacy in the circumstances of this case.

Ofcom therefore considered that there was no unwarranted infringement of Mr Hamilton's privacy in connection with the obtaining of material included in the programme.

- b) CW Solicitors also complained that Mr Hamilton's privacy was unwarrantably infringed in the programme as broadcast because the programme included footage of Mr Hamilton's business without his consent.

In relation to this part of the complaint, Ofcom had regard to Practice 8.6 of the Code. Practice 8.6 of the Code states that if the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

We began by assessing whether Mr Hamilton had a legitimate expectation of privacy with regard to the broadcast of footage of his business premises in the programme.

Ofcom took into account the circumstances in which Mr Hamilton's business was filmed and what material was actually included in the programme as broadcast (as set out in detail at head a) and the "Introduction and programme summary" section above).

The programme included footage filmed at Furnish Kennels, in and around the buildings where the dogs were kept and of dogs in cages. Again, Ofcom took the view that, ordinarily, an individual/organisation could reasonably expect that activities which take place on their private property (in areas that are not publicly accessible) be regarded as being confidential and therefore attract an expectation of privacy. However, in this case, we considered that the footage filmed of Mr Hamilton's business and included in the programme did not disclose any information of a particularly sensitive or private nature to Mr Hamilton. We noted, for example, that no footage of his office was included, which may contain, for example, documents sensitive/confidential to Mr Hamilton and/or his business.

Taking these factors into account therefore, we considered that, while Mr Hamilton had a legitimate expectation of privacy in relation to the broadcast of the footage, his expectation of privacy was limited by the fact that the programme did not disclose any information of a particularly sensitive or private nature to him.

Having reached the view that Mr Hamilton had a legitimate expectation of privacy, albeit limited in these circumstances, Ofcom went on to consider whether it was warranted to infringe his expectation of privacy.

It was not disputed that Mr Hamilton's consent was not obtained before footage of his business was broadcast in the programme.

As set out in head a) above the Code states that "warranted" has a particular meaning. It means that, where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted.

As also already set out above, the individual's right to privacy has to be balanced against the competing rights of the broadcaster's to freedom of expression. Neither right has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific right.

We carefully balanced Mr Hamilton's right to privacy in the broadcast of the filmed footage of his business in the programme, with the broadcaster's right to freedom of expression and the audience's right to receive the information broadcast without unnecessary interference. We came to the view that there was a public interest justification in the programme broadcasting the programme makers' findings relating to Furnish Kennels. The programme raised concerns about whether the scale of the business had compromised the welfare of the animals being kept there. The footage also showed evidence that raised questions about whether the current legislation was sufficient to protect the welfare of dogs being bred in conditions such as those at Furnish Kennels. The programme made it clear that under the current legislation, Furnish Kennels was a "*perfectly legitimate licensed dog breeding operation*" and sought to question how this was possible and raise awareness of the fact that such dog breeding businesses existed and were operating within the law.

On balance, therefore, and given all the factors set out above, Ofcom considered that the broadcaster's right to freedom of expression and the public interest in broadcasting the material outweighed Mr Hamilton's limited expectation of privacy.

Ofcom concluded therefore that there was no unwarranted infringement of Mr Hamilton's privacy in the broadcast of the material in these circumstances.

**Therefore, Ofcom has not upheld Mr Hamilton's complaint, made on his behalf by CW Solicitors, of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.**

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 12 December 2015 and 3 January 2016 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, 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
News	Al Jazeera Eng	17 October 2015	Due accuracy
CSI: Crime Scene Investigation	Sky Living	22 November 2015	Scheduling

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, 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 12 December 2015 and 3 January 2016 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 complaints about content standards on television and radio programmes, go to:

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Promotion for Laugh Out Loud Week	5*	Various	Generally accepted standards	1
Advertisements	5USA	27/12/2015	Advertising content	1
News	Akaal Channel	16/11/2015	Due accuracy	1
And Then There Were None	BBC 1	26/12/2015	Outside of remit / other	1
And Then There Were None	BBC 1	27/12/2015	Offensive language	1
BBC Music Awards	BBC 1	10/12/2015	Generally accepted standards	1
Cuffs	BBC 1	16/12/2015	Scheduling	4
EastEnders	BBC 1	04/12/2015	Violence and dangerous behaviour	1
EastEnders	BBC 1	08/12/2015	Race discrimination/offence	1
EastEnders	BBC 1	08/12/2015	Religious/Beliefs discrimination/offence	2
EastEnders	BBC 1	10/12/2015	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 1	14/12/2015	Religious/Beliefs discrimination/offence	4
EastEnders	BBC 1	14/12/2015	Violence and dangerous behaviour	1
EastEnders	BBC 1	15/12/2015	Materially misleading	1
EastEnders	BBC 1	24/12/2015	Religious/Beliefs discrimination/offence	7
EastEnders	BBC 1	26/12/2015	Scheduling	3
EastEnders	BBC 1	28/12/2015	Religious/Beliefs discrimination/offence	1
EastEnders	BBC 1	28/12/2015	Scheduling	1
Have I Got News for You	BBC 1	11/12/2015	Generally accepted standards	3
Holby City	BBC 1	22/12/2015	Offensive language	2
Indiana Jones and the Temple of Doom	BBC 1	22/12/2015	Scheduling	2
Raiders of the Lost Ark	BBC 1	21/12/2015	Scheduling	1
Saturday Kitchen	BBC 1	26/12/2015	Religious/Beliefs discrimination/offence	1



<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Snow Chick: A Penguin's Tale	BBC 1	24/12/2015	Scheduling	1
Sports Personality of the Year 2015	BBC 1	20/12/2015	Generally accepted standards	1
Strictly Come Dancing	BBC 1	13/12/2015	Voting	3
Strictly Come Dancing	BBC 1	19/12/2015	Scheduling	1
Strictly Come Dancing	BBC 1	19/12/2015	Voting	3
The Graham Norton Show	BBC 1	04/12/2015	Race discrimination/offence	1
The Graham Norton Show	BBC 1	11/12/2015	Materially misleading	1
The Graham Norton Show	BBC 1	18/12/2015	Animal welfare	1
The One Show	BBC 1	09/12/2015	Violence and dangerous behaviour	3
The Taliban Hunters	BBC 1	14/12/2015	Outside of remit / other	1
A Gert Lush Christmas	BBC 2	26/12/2015	Disability discrimination/offence	1
Dad's Army	BBC 2	12/12/2015	Race discrimination/offence	1
MasterChef: The Professionals	BBC 2	16/12/2015	Generally accepted standards	1
Only Connect	BBC 2	28/12/2015	Race discrimination/offence	1
Russell Howard's Good News	BBC 2	21/12/2015	Religious/Beliefs discrimination/offence	1
Strictly Come Dancing: It Takes Two	BBC 2	08/12/2015	Gender discrimination/offence	1
The Last Kingdom	BBC 2	10/12/2015	Nudity	1
The World's Most Photographed	BBC 2	11/12/2015	Nudity	1
Top Gear	BBC 2	26/12/2015	Sexual orientation discrimination/offence	1
Victoria Derbyshire	BBC 2	01/12/2015	Generally accepted standards	1
Don't Tell the Bride	BBC 3	08/12/2015	Race discrimination/offence	1
Top Gear	BBC 3	09/12/2015	Race discrimination/offence	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	11/12/2015	Generally accepted standards	1
Jeremy Vine	BBC Radio 2	07/12/2015	Generally accepted standards	1
Jeremy Vine	BBC Radio 2	09/12/2015	Generally accepted standards	1
Jo Whiley	BBC Radio 2	02/12/2015	Generally accepted standards	1
Any Questions	BBC Radio 4	12/12/2015	Offensive language	1
Sunday Show	BBC Radio 4	20/12/2015	Sexual orientation discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
5 Live Breakfast	BBC Radio 5 Live	10/12/2015	Offensive language	1
Fighting Talk	BBC Radio 5 Live	05/12/2015	Race discrimination/offence	1
Geoff Twentyman	BBC Radio Bristol	11/11/2015	Generally accepted standards	1
Sportsround	BBC Radio Scotland	30/11/2015	Offensive language	1
News	BBC Radio Shropshire	11/12/2015	Offensive language	1
CBBC Official Chart Show	CBBC	18/12/2015	Scheduling	1
Ooglies	CBBC	04/12/2015	Scheduling	1
Meet the Kittens	CBeebies	03/12/2015	Scheduling	2
Meet the Kittens	CBeebies	17/12/2015	Scheduling	1
Melody	CBeebies	11/12/2015	Scheduling	1
Oz	CBS Action	25/11/2015	Generally accepted standards	1
Alan Carr: Chatty Man	Channel 4	11/12/2015	Generally accepted standards	2
Alternative Christmas Message	Channel 4	25/12/2015	Outside of remit / other	1
Bear Goes Wild with Barack Obama	Channel 4	20/12/2015	Generally accepted standards	1
Big Fat Quiz of the Year	Channel 4	26/12/2015	Generally accepted standards	1
Big Fat Quiz of the Year	Channel 4	26/12/2015	Offensive language	3
Britain's Benefit Tenants	Channel 4	30/11/2015	Animal welfare	1
Britain's Wildest Weather 2015	Channel 4	13/12/2015	Offensive language	1
Channel 4 News	Channel 4	02/12/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	03/12/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	03/12/2015	Race discrimination/offence	1
Channel 4 News	Channel 4	09/12/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	13/12/2015	Race discrimination/offence	1
Channel 4 News	Channel 4	21/12/2015	Generally accepted standards	1
Deutschland 83 (trailer)	Channel 4	30/12/2015	Scheduling	1
First Dates (trailer)	Channel 4	17/12/2015	Scheduling	1
Fosters' sponsorship of Original Comedy on 4	Channel 4	08/12/2015	Sponsorship credits	1
Four Christmases	Channel 4	20/12/2015	Generally accepted standards	1
Gogglebox	Channel 4	18/12/2015	Offensive language	1
Gogglebox	Channel 4	28/12/2015	Generally accepted standards	1
Hollyoaks	Channel 4	14/12/2015	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Hollyoaks	Channel 4	18/12/2015	Race discrimination/offence	1
Homeland	Channel 4	06/12/2015	Generally accepted standards	1
Homeland	Channel 4	06/12/2015	Generally accepted standards	1
L'Oreal's sponsorship of First Dates	Channel 4	03/12/2015	Sponsorship credits	1
Red 2	Channel 4	12/12/2015	Generally accepted standards	1
Sunday Brunch	Channel 4	20/12/2015	Animal welfare	1
TFI Friday	Channel 4	04/12/2015	Under 18s in programmes	2
TFI Friday	Channel 4	11/12/2015	Animal welfare	1
The Rich Kids of Instagram	Channel 4	21/12/2015	Violence and dangerous behaviour	2
The Simpsons	Channel 4	21/12/2015	Offensive language	1
Toast of London	Channel 4	23/12/2015	Race discrimination/offence	1
5 News at 5	Channel 5	14/12/2015	Crime	1
Call Me Claus	Channel 5	06/12/2015	Offensive language	1
Can't Pay We Will Take It Away	Channel 5	18/11/2015	Due accuracy	1
Can't Pay We Will Take It Away	Channel 5	02/12/2015	Due accuracy	1
Can't Pay We Will Take It Away	Channel 5	23/12/2015	Due accuracy	1
Can't Pay? We'll Take it Away!	Channel 5	09/12/2015	Materially misleading	1
Can't Pay? We'll Take it Away!	Channel 5	23/12/2015	Generally accepted standards	2
Can't Pay We Will Take It Away	Channel 5	09/12/2015	Due accuracy	1
Christmas with the Wright Stuff	Channel 5	15/12/2015	Offensive language	1
Danger: Teen Bingers	Channel 5	07/12/2015	Generally accepted standards	1
Diet Coke's sponsorship	Channel 5	Various	Sponsorship credits	1
Fail Army	Channel 5	12/12/2015	Offensive language	1
Homeless at Christmas	Channel 5	03/12/2015	Materially misleading	1
This Christmas	Channel 5	19/12/2015	Scheduling	1
My Parents are Aliens	CITV	16/12/2015	Drugs, smoking, solvents or alcohol	1
Super Scoreboard	Clyde 1	28/12/2015	Due impartiality/bias	1
Al Murray Live at the O2	Comedy Central Extra	15/11/2015	Generally accepted standards	1
News	Dunya TV	04/12/2015	Due accuracy	1
Made in Chelsea	E4	07/12/2015	Sexual orientation discrimination/offence	2
Made in Chelsea	E4	28/12/2015	Religious/Beliefs discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Tattoo Fixers	E4	27/12/2015	Materially misleading	1
Family Guy	Fox	15/12/2015	Generally accepted standards	1
Matt Wilkinson	Heart FM	07/12/2015	Offensive language	1
News	Heart FM	01/12/2015	Due impartiality/bias	1
Anadin's sponsorship of The Chase	ITV	17/12/2015	Sponsorship credits	1
Anadin's sponsorship of The Chase	ITV	18/12/2015	Sponsorship credits	1
Anadin's sponsorship of The Chase	ITV	Various	Sponsorship credits	1
Anadin's sponsorship of The Chase	ITV	Various	Sponsorship credits	2
BAFTA Celebrates Downton Abbey	ITV	21/12/2015	Generally accepted standards	1
Big Star's Little Star	ITV	22/12/2015	Scheduling	1
Coronation Street	ITV	14/12/2015	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV	14/12/2015	Scheduling	1
Emmerdale	ITV	11/12/2015	Generally accepted standards	1
Emmerdale	ITV	14/12/2015	Disability discrimination/offence	1
Emmerdale	ITV	18/12/2015	Generally accepted standards	1
Emmerdale	ITV	23/12/2015	Violence and dangerous behaviour	1
Good Morning Britain	ITV	08/12/2015	Due impartiality/bias	2
Good Morning Britain	ITV	09/12/2015	Generally accepted standards	3
Good Morning Britain	ITV	16/12/2015	Animal welfare	1
Good Morning Britain	ITV	17/12/2015	Violence and dangerous behaviour	1
Good Morning Britain	ITV	23/12/2015	Generally accepted standards	1
Good Morning Britain	ITV	29/12/2015	Generally accepted standards	1
Green Flag's sponsorship of ITV Weather	ITV	07/12/2015	Sponsorship credits	1
I'm a Celebrity, Get Me Out of Here!	ITV	06/12/2015	Animal welfare	1448
ITV Evening News	ITV	14/12/2015	Due impartiality/bias	1
ITV News at Ten	ITV	14/12/2015	Due impartiality/bias	3
ITV News at Ten and Weather	ITV	08/12/2015	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	11/12/2015	Generally accepted standards	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
ITV News at Ten and Weather	ITV	15/12/2015	Offensive language	1
Jurassic Park	ITV	26/12/2015	Offensive language	2
Loose Women	ITV	08/12/2015	Generally accepted standards	1
Lorraine	ITV	23/12/2015	Materially misleading	1
Text Santa Christmas Jumper Day	ITV	18/12/2015	Gender discrimination/offence	1
Text Santa Christmas Jumper Day	ITV	19/12/2015	Gender discrimination/offence	1
The Chase: Celebrity Special	ITV	12/12/2015	Offensive language	1
The Jeremy Kyle Show	ITV	10/12/2015	Animal welfare	1
The Martin Lewis Money Show	ITV	30/11/2015	Materially misleading	1
The Royal Variety Performance	ITV	08/12/2015	Race discrimination/offence	5
The Royal Variety Performance	ITV	08/12/2015	Scheduling	2
The Sound of Music Live	ITV	20/12/2015	Outside of remit / other	2
The X Factor	ITV	12/12/2015	Flashing images/risk to viewers who have PSE	1
The X Factor	ITV	12/12/2015	Gender discrimination/offence	3
The X Factor	ITV	12/12/2015	Outside of remit / other	2
The X Factor Results Show	ITV	13/12/2015	Promotion of products/services	1
The X Factor Results Show	ITV	13/12/2015	Violence and dangerous behaviour	1
The X Factor Results Show	ITV	13/12/2015	Voting	7
The Xtra Factor	ITV	12/12/2015	Generally accepted standards	1
This Morning	ITV	07/12/2015	Crime	1
This Morning	ITV	10/12/2015	Generally accepted standards	1
This Morning	ITV	16/12/2015	Due accuracy	1
You've Been Framed!	ITV	26/12/2015	Generally accepted standards	1
Frankenstein Chronicles	ITV Encore	11/11/2015	Violence and dangerous behaviour	1
ITV News Granada Reports	ITV Granada	30/11/2015	Sexual orientation discrimination/offence	1
Royal London's sponsorship of London Weekday Weather	ITV London	07/12/2015	Sponsorship credits	1
ITV News West Country	ITV West	03/12/2015	Due accuracy	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
E.T. The Extra-Terrestrial	ITV2	25/12/2015	Offensive language	1
The Xtra Factor	ITV2	12/12/2015	Generally accepted standards	1
The Xtra Factor	ITV2	13/12/2015	Nudity	1
Leyland's sponsorship	ITV4	26/11/2015	Sponsorship credits	1
Rambo: First Blood Part II	ITV4	16/12/2015	Outside of remit / other	1
Mob Wives	ITVBe	25/11/2015	Generally accepted standards	1
Kiss Me TV	Kiss Me TV		Advertising content	1
Koast Auto Play	Koast Radio	13/12/2015	Offensive language	1
Koast Auto Play	Koast Radio	16/12/2015	Offensive language	1
Laura's Lunch Box with Laura McDonald	Koast Radio	10/11/2015	Offensive language	1
Saturday Sports Show with Malcolm Bamford	Koast Radio	07/11/2015	Offensive language	1
The Billy Lort Breakfast Show	Koast Radio	04/12/2015	Offensive language	1
Clive Bull	LBC 97.3 FM	09/12/2015	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	18/12/2015	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	13/11/2015	Generally accepted standards	1
Nick Ferrari	LBC 97.3 FM	11/12/2015	Religious/Beliefs discrimination/offence	1
Steve Allen	LBC 97.3 FM	21/12/2015	Religious/Beliefs discrimination/offence	1
Petrie Hosken	LBC 97.3FM	06/12/2015	Religious/Beliefs discrimination/offence	1
Programming	Legacy 90.1 (Manchester)	20/11/2015	Commercial communications on radio	2
8 Out of 10 Cats Does Countdown	More4	01/12/2015	Race discrimination/offence	1
Four in a Bed	More4	05/12/2015	Offensive language	1
My Daughter the Teenage Nudist	More4	14/12/2015	Gender discrimination/offence	1
Drama	NTV	21/11/2015	Product placement	1
Danone's sponsorship	Pick TV	Various	Sponsorship credits	1
Born Survivor: Bear Grylls	Quest	03/12/2015	Animal welfare	1
Radio Aire	Radio Aire	Various	Commercial communications on radio	1
Radio Aire Breakfast Stu and Kelly	Radio Aire 96.3 FM	10/12/2015	Gender discrimination/offence	1
The Chris Moyles Show	Radio X	24/11/2015	Competitions	1
Escape to the Country	Really	09/12/2015	Gender discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Thapki Pyar Ki	Rishtey	17/08/2015	Television Access Services	1
Darryl Morris Breakfast Show	Rock FM 97.4	07/12/2015	Generally accepted standards	1
Mid Morning Show	Sandgrunder Radio 87.7FM	17/11/2015	Commercial communications on radio	1
Travis Mitchell	Signal 1 FM	27/11/2015	Scheduling	1
Scandal	Sky Living	03/12/2015	Generally accepted standards	1
Press Preview	Sky News	26/12/2015	Generally accepted standards	1
Sky News at 6 with Jeremy Thompson	Sky News	10/12/2015	Due impartiality/bias	1
Sky News at 6 with Jeremy Thompson	Sky News	14/12/2015	Religious/Beliefs discrimination/offence	1
Sky News at Ten	Sky News	11/12/2015	Due impartiality/bias	1
Sky News with Dermot Murnaghan	Sky News	28/12/2015	Gender discrimination/offence	1
Sky News with Kay Burley	Sky News	07/12/2015	Advertising scheduling	1
Sky News with Martin Stanford	Sky News	26/12/2015	Generally accepted standards	1
Advertisements	Sky Sports 1	27/12/2015	Advertising content	1
World Darts Championship	Sky Sports 1	19/12/2015	Offensive language	1
Gillette Soccer Saturday	Sky Sports News	05/12/2015	Race discrimination/offence	1
Gillette Soccer Saturday	Sky Sports News	19/12/2015	Generally accepted standards	1
Sky Sports News	Sky Sports News	04/12/2015	Generally accepted standards	1
A League of Their Own	Sky1	04/12/2015	Offensive language	1
Fungus the Bogeyman	Sky1	27/12/2015	Offensive language	1
Hawaii Five-0	Sky1	18/12/2015	Violence and dangerous behaviour	1
Modern Family	Sky1	30/11/2015	Sponsorship	1
Moonfleet	Sky2	25/12/2015	Nudity	1
Road Wars	Sky2	09/12/2015	Under 18s in programmes	1
Transporter: The Series	Spike	10/12/2015	Generally accepted standards	1
Programming	Studio 66	Various	Participation TV - Offence	1
Elaine C Smith's Burdz Eye View of Hogmanay	STV	31/12/2015	Outside of remit / other	1
Elaine C Smith's Burdz Eye View of Hogmanay	STV	31/12/2015	Outside of remit / other	6
Kick Off	Talksport	09/12/2015	Materially misleading	1
Inside Trinity Family Of Networks	TBN UK	16/11/2015	Materially misleading	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Partner Time	TBN UK	11/12/2015	Materially misleading	1
Praise The Lord US	TBN UK	08/11/2015	Materially misleading	1
Vineyard Church	TBN UK	29/11/2015	Promotion of products/services	1
Miracle on 34th Street	Various	Various	Outside of remit / other	1
Subtitling	Various	Various	Television Access Services	1
Programming	XXXpanded TV	12/12/2015	Fairness	1

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

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

<b>Licensee</b>	<b>Licensed service</b>	<b>Categories</b>
Blast 106 Limited	Blast 106	Key Commitments



## Complaints outside of remit

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

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

### Complaints about television or radio programmes

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

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
BBC News at Ten	BBC 1	14/12/2015	Due impartiality/bias	1
BBC News at Ten	BBC 1	17/12/2015	Outside of remit / other	1
Breakfast	BBC 1	15/12/2015	Promotion of products/services	1
Regional News and Weather	BBC 1	17/12/2015	Due impartiality/bias	1
Breakfast	BBC 1	26/12/2015	Due accuracy	1
Look North	BBC 1	Various	Product placement	1
Saturday Kitchen	BBC 1	19/12/2015	Promotion of products/services	1
Advertisements	CBS Reality	28/12/2015	Advertising content	1
Advertisement	Channel 4	11/12/2015	Advertising content	1
Advertisement	Channel 4	13/12/2015	Advertising content	2
Advertisements	Channel 4	10/12/2015	Advertising content	1
Advertisements	Channel 5	23/12/2015	Advertising content	1
Advertisements	Christmas Food	20/12/2015	Advertising content	1
Advertisement	History Channel	11/12/2015	Advertising content	1
Advertisement	ITV	08/12/2015	Advertising content	1
Advertisements	ITV	27/12/2015	Advertising content	1
Advertisements	ITV	Various	Advertising content	1
Advertisements	ITV2	28/12/2015	Advertising content	1
Advertisement	ITV4	17/12/2015	Advertising content	1
Advertisements	ITV4	22/12/2015	Advertising content	1
Advertisement	ITVBe	11/12/2015	Advertising content	1
Advertisements	NDTV 24x7	10/12/2015	Advertising content	1
Advertisement	Sky News	15/12/2015	Advertising content	1
Advertisements	Sky News	27/12/2015	Advertising content	2

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Advertisements	Sky Sports News	26/12/2015	Advertising content	1
Advertisement	Various	13/12/2015	Advertising content	1
Advertisement	Various	Various	Advertising content	1
Advertisement	Various	Various	Advertising content	1
Advertisements	Various	24/12/2015	Advertising content	1
Advertisements	Various	Various	Advertising content	1
Advertisements	Vintage TV	26/12/2015	Advertising content	1

## Investigations List

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

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

Here are alphabetical lists of new investigations launched between 12 December 2015 and 3 January 2016.

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

Programme	Broadcaster	Transmission date
News programming	Aaj Tak	4 December 2015
Teenage Mutant Ninja Turtles	Channel 5	13 December 2015
Urs Nehrian Part 2	Noor TV	17 November 2015
Derren Brown: Something Wicked This Way Comes	Watch	6 December 2015
The World's Most Expensive Food	Channel 4	26 November 2015

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, 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
News	Bangla TV	28 August 2015
Congo Bololo	BEN TV	4 June 2015
Congo Bololo	BEN TV	7 November 2015
Tyger Takes On...Am I Sexist?	BBC 3	19 November 2015
Samaa Eid Special	Samaa TV	26 September 2015

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>