

That's Lancashire News

Type of case Broadcast Standards

Decision In Breach

Service That's Lancashire

Date & time 5 August 2019, 13:00

Category Due impartiality/bias

Summary A news report about the possibility of cannabis being legalised in the UK was not duly impartial. It also condoned and encouraged the use of cannabis without justification, and did not provide adequate protection for viewers from potential harm. Breaches of Rules 1.10, 2.1, and 5.1 of the Broadcasting Code.

Introduction

That's Lancashire is the local television service for Lancashire and surrounding areas. The licence for the service is held by Your TV Preston Limited ("Your TV" or "the Licensee")

Ofcom received a complaint that a report was broadcast about the legalisation of cannabis in the UK which was not impartial.

This news item began with an introduction by the newsreader explaining that:

"A group of cross-party MPs said the UK could completely legalise cannabis use within a decade following a research trip to Canada. Labour's David Lammy, the Liberal Democrats' Sir Norman Lamb and Conservative MP Jonathan Djanogly visited the country to study the legal weed market. The Tottenham MP said he had shifted his stance on the drug deciding to back legalisation in a departure from his party's official position. We wanted to find out if the public agreed with him".

This was followed by five vox pop interviews with members of the public. All interviewees agreed that cannabis should be legalised, with several of the contributors giving their thoughts and sharing their own experiences of using the drug, including the following examples:

- *“..he smoked weed and now he’s got no nerve damage anymore, you know what I mean, it’s normal, I’m cool, it helped me get through a lot of things, and uh, back pain, chronic pain, just things like that, you know what it’s a great tool”.*
- *“Yeah, I think it [cannabis] should be legalised, because I think it just encourages crime and gangs, gang warfare when it’s illegal and it doesn’t help solve any problem”.*
- *“Yes it [cannabis] should [be legalised] because people need it these days, you see people struggling, people dying and it’s hard to get medications”.*

The final contributor said: “100% it [cannabis] should be legalised, I don’t think there’s any harm in cannabis, almost everybody in Manchester is smoking cannabis, it’s massively revenue-able as we’ve seen in America and it’s inevitable and hopefully it’s one day soon”. The segment then ended.

At no point during this programme were any views represented which opposed the legalisation of cannabis. We were also concerned that several of the contributors suggested that cannabis is not harmful and that it can be used to successfully treat illnesses.

We therefore considered that this programme raised issues under the Code and requested comments from the Licensee about how the content complied with the following rules:

Rule 1.10: “The use of illegal drugs, the abuse of drugs, smoking, solvent abuse and the misuse of alcohol:

- must not be featured in programmes made primarily for children unless there is strong editorial justification;
- must generally be avoided and in any case must not be condoned, encouraged or glamorised in other programmes broadcast before the watershed (in the case of television), when children are particularly likely to be listening (in the case of radio), or when content is likely to be accessed by children (in the case of BBC ODPS) unless there is editorial justification;
- must not be condoned, encouraged or glamorised in other programmes likely to be widely seen, heard or accessed by under-eighteens unless there is editorial justification.”

Rule 2.1: “Generally accepted standards must be applied to the contents of television and radio services...so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material.”

Rule 5.1: “News, in whatever form, must be reported with due accuracy and presented with due impartiality.”

Response

The Licensee said that the journalist spent around two hours obtaining these vox pops, which was considerably longer than it would usually take, “with the intention of identifying a range of views”. However, “a reasonable range of views could not be secured on the day” as no member of the public interviewed opposed the legalisation of cannabis.

The Licensee explained that the journalist recognised the need for an alternative viewpoint and therefore obtained a statement from the Home Office which read: “The legalisation of these substances would not eliminate the crime committed by the illicit trade, nor would it address the harms associated with drug dependence and the misery they can cause to families and society”.

The Licensee explained that the Home Office’s statement was read after the pre-recorded segment on the original broadcast of this report, however, it was not included in certain re-runs due to a scheduling error.

The Licensee said that part of its remit is to voice the views of the public “which may not necessarily correspond to the ‘consensus’ view of the Westminster ‘establishment’”. However, the “reporting of challenging... views should not in itself be considered offensive or harmful particularly within the context of this type of programming”. The Licensee considered that the “core audience for this type of programming is likely to understand... that cannabis is illegal due to being deemed a health risk but nevertheless still widely used”. It also highlighted its desire not to patronise viewers, who, in its view, are able to recognise the difference between “the views of the public which may reflect their own particular knowledge and experience” and those of health advisers and other specialists, “some of whom may have different conclusions”. It argued that vox pops are intended as a “fair snap shot” and not “a representative sample of public or scientific opinion”.

Your TV said that this programme was unlikely to have been widely viewed by under-18s, and that the expression of opinions by members of the public in a news report was editorially justified, particularly as the views expressed in the report were “sincerely held by those interviewed and many public figures... have admitted to adult cannabis use”.

Your TV acknowledged that the failure to include the Home Office’s statement in every broadcast led to this report being unbalanced and it apologised for this. It said that while “this statement went a good way to balancing the piece (where used), we acknowledge that some of the views expressed... were capable of even further challenge e.g. by an additional statement from the Department of Health”. In light of this incident, Your TV has reminded its journalists “that the broadcast of controversial views and opinions should be with appropriate care and due balance” and that “balancing statements [should] be included in the VT itself, rather than in presenter reads”.

Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes. Section Five of the Code includes the requirement that news is presented with due impartiality.

Ofcom's Code is drafted, and given effect to, in accordance with Article 10 of the European Convention on Human Rights. This provides for the broadcaster's and audience's right to freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. The right to freedom of expression is not absolute. Ofcom must exercise its duties in light of the broadcaster's and audience's Article 10 rights and not restrict that right unless it is satisfied that it is necessary and proportionate to do so. This means that each and every time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights, as it has done in this case.

Rule 1.10

Rule 1.10 states that the use of illegal drugs or the abuse of drugs must not be condoned, encouraged or glorified in programmes broadcast before the watershed unless there is editorial justification.

This report consisted entirely of people agreeing that cannabis, which is currently a class B drug in the UK, should be legalised. During the vox pop section of the report, three of the five people interviewed made statements to suggest: that cannabis could be used instead of other medications, that cannabis can cure nerve damage, and that everybody uses cannabis. The Licensee represented that the programme was unlikely to have been widely viewed by under-18s, but it was shown before the watershed and the Licensee was therefore obliged to consider its potential impact on younger viewers.

It is clearly legitimate for a news programme to explore public attitudes towards the use and possible legalisation of cannabis. We acknowledge that the views expressed in this report were the personal views of these members of the public. However, we considered that, in the absence of an opposing view or any information about the risks or lack of research into the effects of cannabis, the statements resulted in an impression that the report condoned the use of cannabis. We also considered that the unchallenged testimonials, particularly about cannabis curing nerve damage, being "*normal*" and "*a great tool*", and the comment that "*almost everyone in Manchester is smoking cannabis*" could potentially encourage the audience to use cannabis.

We did not consider that the inclusion of these statements, without further context, information or challenge, was editorially justified.

For the reasons outlined above, Ofcom's Preliminary View is that this pre-watershed report condoned or encouraged the use of an illegal drug without editorial justification and therefore breached Rule 1.10 of the Code.

Rule 2.1

Rule 2.1 requires broadcasters to ensure that generally accepted standards are applied to programmes to provide adequate protection for members of the public from the inclusion of harmful and offensive material in programmes.

We first considered whether the report had the potential to cause harm to viewers.

We acknowledged that the statements made during the vox pops were the personal views of members of the public and not experts or people with any particular authority in this area, such as medical professionals. However, we were concerned by the various claims contained in them, that

appeared to directly contradict the latest medical advice on medical cannabis, and that they were presented without further information, context or challenge.

The first contributor claimed that his friend no longer had nerve damage as a result of smoking cannabis, and gave personal testimony that smoking cannabis had helped him with “back pain” and “chronic pain”. While it is acknowledged that cannabis can help to ease the symptoms associated with certain medical conditions, the research is limited, and it is not a widely prescribed drug (<https://www.nhs.uk/conditions/medical-cannabis/>). However, the very limited circumstances in which medical cannabis is currently prescribed were not made clear to the audience in this broadcast.

In fact, we considered that the inclusion of this particular vox pop interview suggested that cannabis could be used to help anyone suffering with long term and chronic pain. According to the NHS website (see link above) this is not the case as there is limited evidence that cannabis can be used to manage long term pain. We also considered that some of the comments from other contributors implied that cannabis is not harmful and could be used in lieu of other medications, i.e. *“100% it [cannabis] should be legalised, I don’t think there’s any harm in cannabis...”* and *“..people need it these days, you see people struggling, people dying and it’s hard to get medications”*.

The use of cannabis is not without risk, and the NHS warns that the main risks of THC (the active chemical in cannabis products) are psychosis and dependency. The NHS also recommends being cautious if buying cannabis products without a prescription as it is unclear what levels of THC they may contain or whether the products will be of a safe quality.

We also considered the first contributor’s comments that smoking cannabis is *“normal”* and is a *“great tool”* and the last contributor’s statement that *“almost everyone in Manchester is smoking cannabis”* could be seen to normalise a behaviour that is currently illegal and not medically advised.

We therefore considered that the report had the potential to result in harm to viewers and the Licensee was required to ensure it provided adequate protection to its audience.

While we acknowledge the Licensee’s intention not to patronise its audience, we took into account that no information on the current health advice on using cannabis was provided in the report. In our view, this would have been likely to have been helpful in providing adequate protection to viewers from potential harm.

For these reasons, Ofcom’s Preliminary View is that this programme is in breach of Rule 2.1.

Rule 5.1

Rule 5.1 states that:

“News, in whatever form, must be reported with due accuracy and presented with due impartiality”.

As mentioned above, Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the European Convention of Human Rights.

Ofcom underlines that the broadcasting of controversial comments concerning government policies is not, in itself, a breach of rules on due impartiality. However, depending on the specific circumstances,

it may be necessary to reflect alternative viewpoints or provide context in an appropriate way to ensure that Section Five is complied with.

Ofcom first considered whether Rule 5.1 applied in this case. The obligation under Rule 5.1 to preserve due impartiality in news applies to any matter covered in a news programme. News includes: news bulletins, news flashes and daily news magazine programmes. The report in question was broadcast as part of a news programme and therefore Rule 5.1 applied.

Ofcom went on to assess whether due impartiality was preserved in the programme. The Code makes clear that “due” means adequate or appropriate to the subject and nature of the programme. “Due impartiality” does not therefore mean an equal division of time must be given to every view, or that every argument must be represented. Due impartiality can be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures this.

Paragraph 1.17 of Ofcom’s Guidance on Section Five of the Code gives examples of the editorial techniques that a broadcaster might use to maintain due impartiality where alternative views are not readily available, as the Licensee said was the case here. For example, broadcasters could: seek alternative viewpoints from a range of sources; summarise with due objectivity and in context the alternative viewpoints, and/or ensure that the views expressed in a news item are challenged critically by presenters and reporters within the programmes.

The Code also makes clear that the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content and the extent to which the content and approach is signalled to the audience. In addition, context, as set out in Section Two (Harm and Offence) of the Code is important in preserving due impartiality. Context includes factors such as: the editorial content of the programme; the service on which the material is broadcast; the likely size, composition and expectation of the audience; and the effect on viewers who may come across the programme unawares.

This news item reported on the possibility of future cannabis legalisation in the UK. Ofcom considered that the potential legalisation of cannabis, and its use, are matters of significant public interest on which a range of views are held by the general public, experts and politicians. The report included a number of statements, in the form of vox pops, that supported the idea of legalisation for various reasons. However, no opposing view or challenge to the statements was presented.

Ofcom took into consideration the statement provided by the Home Office and agreed with the Licensee that the broadcast of such a statement as part of the report would have helped to preserve due impartiality. We were also mindful of the Licensee’s assurance that journalists had been reminded that controversial views and opinions should be broadcast with “appropriate care and due balance”. However, we concluded that the failure to reflect any alternative view led to a lack of due impartiality in this report.

For the reasons outlined above, Ofcom’s view is that the Licensee also failed to preserve due impartiality and breached Rule 5.1 of the Code.

Breaches of Rules 1.10, 2.1 and 5.1