

Programme complaints bulletin

Standards & Fairness and Privacy

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Introduction

Some of the following complaints were received by the legacy regulators prior to the commencement of Ofcom. Under the terms of the Communications Act 2003, they became the responsibility of Ofcom on 29 December 2003.

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. Ofcom is currently consulting on its new draft Code. This can be found at http://www.ofcom.org.uk/consultations/current/broadcasting_code/

The new Code will be published at the beginning of 2005.

The Codes currently in force for programming are:

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Code of Programme Sponsorship (Independent Television Commission)

The cases have been considered against the above Codes.

- Some programmes will have breached the relevant code or been found to be unfair or to have infringed privacy without good reason (Upheld).
- Others will not have breached the code or been found to be unfair or to have infringed privacy without good reason (Not upheld).
- However, there may be occasions where Ofcom recognises that a broadcaster has taken appropriate action in response to an issue (for instance, the broadcaster may recognise that an error has occurred and taken responsible steps to rectify it). But even when such action has been taken, Ofcom may still consider it appropriate to find that the programme breached the Code due to the seriousness of the issues involved.

The lay-out of the report reflects these distinctions.

Standards cases

In Breach

Free to Air Promotions

Gay TV, July

Introduction

Promotional material is broadcast by Gay TV between 20:00 and 22:00 each night, free to air. The purpose of this is to encourage viewers to subscribe to the encrypted service transmitted after 22:00.

Two viewers complained that promotional material transmitted by Gay TV, prior to 21:30 - ahead of encrypted programming - was too strong. One complaint related to output on 18 July, the other to material transmitted on 29 July. However, Ofcom was particularly concerned with some material transmitted after 21:30.

Response

Gay TV pointed out that both complainants referred to material transmitted prior to 21:30. It insisted that no material broadcast at that time was in breach of the Programme Code. The broadcaster also suggested that the complainants had singled out Gay TV because of its homosexual content and "for no other reason".

Decision

The Programme Code (Section 1.2) states that "Material which is particularly adult in tone should be scheduled appropriately and clearly signposted." Section 1.6 (Sex and Nudity) states: "Sex scenes of a more adult nature, which are more graphic and prolonged, should be limited to much later in the schedule".

Ofcom does not discriminate between homosexual and heterosexual sex in programmes. On both evenings, material transmitted before 21:30 was non-explicit. However, stronger material began shortly after this time. We noted that the broadcaster itself acknowledged the strength of the material and transmitted a warning which said: "Due to the sexual nature and use of bad language in the following programmes, they are only suitable for persons above the age of 18."

On 18 July, the majority of the promotional clips transmitted between 21:30 and 22:00 were not problematic. However, a promotion for a programme called *After Hours* included nudity within clearly sexual situations. This short scene was too explicit for transmission at this time.

On 29 July, the material was notably stronger, and included more explicit images of sex and nudity. In particular, a promotion for a programme called *Gay Night Calls* featured

images of men with bound scrotums; a man's head between another's naked buttocks; and masturbation. The pictures were accompanied by some very explicit language.

We recognise that the material was clearly signposted. However, the material transmitted after 21:30 - particularly on 29 July was too explicit for unencrypted broadcast.

Gay TV has a good compliance record to date. However, we have made it clear to Gay TV that any future transmission of similar material, to that of 29 July, will result in the consideration of a statutory sanction.

Gay TV was in breach of Sections 1.1 (General Offence) and 1.6 (Sex and Nudity) of the Programme Code.

Big Brother 5

Channel 4 and E4, 17 June 2004

Introduction

This was the fifth series of *Big Brother* which Channel 4 billed as “*Big Brother gets evil*”. The housemates were led to believe that Emma and Michelle had been evicted. However, they were simply in an adjoining room and able to watch and listen to everything going on in the house. On 16 June, they were re-introduced into the house. Early in the morning of 17 June, an argument broke out. In addition to verbal abuse and threats, there was spitting, destruction of property and some physical confrontation. Security guards were called in and the housemates separated. This was shown live on E4 and edited footage used in the Channel 4 *Big Brother* programme the following day. During some of these events the cameras cut to scenes of the garden, but for the majority of the time, the audio feed of events in the house continued.

As a result of the altercation, one of the contestants (Emma) was later removed from the house.

Throughout the live coverage on E4, text messages from viewers were invited and displayed at the bottom of the screen. During the most violent period, the question posed by E4 to viewers was “Has Jason lost it?” and then “Have they all lost it?”. The messages from viewers chosen by the channel ranged from “*time to bring in an adult*”, “*GET TO THE HOUSE!*” to “*This is quality. LOVIN IT. COME ON J!*”, “*this is the bomb let them fight*”.

We received 328 complaints that referred directly or indirectly to the fight. 55 of these were about the live coverage on E4 and 190 complaints referred predominantly to the Channel 4 edition of *Big Brother* the following evening. The remaining 83 complaints were about both programmes, the wellbeing of the participants and the eviction of Emma.

Viewers were upset and concerned about the level of violence (both verbal and apparently physical) in the *Big Brother* house, the effect of this on the contestants and the circumstances that allowed these events to take place. Viewers felt that the conflict was ‘engineered’ by Channel 4, which chose to reintroduce Emma and Michelle into what would predictably be a volatile situation, and that the situation was fuelled by the supply of alcohol.

Referring both to the live coverage on E4, and the footage subsequently used on Channel 4, viewers said the level of implied and actual physical/verbal violence went beyond what they would expect from an entertainment programme. As the scenes also included the obvious distress of some housemates, some viewers felt this was not only offensive and distressing to watch, but that it exploited certain housemates.

Viewers also said that the audio, which continued to run in most of the live coverage, was an additional cause of distress. In the absence of pictures to confirm what was happening, the continued shouting and occasional sounds that suggested objects were being thrown or used violently, amplified viewers' concerns.

Viewers also felt that the length of time the situation was allowed to continue for was unacceptable. There was an apparent lack of a swift, effective intervention by *Big Brother*. This was particularly offensive as there was usually a rapid response to relatively minor infringements of house rules and this appeared to encourage potential violence. The text messages that continued to run along the bottom of the screen appeared to confirm that Channel 4 was not taking the situation seriously and this implied that the participants could be in danger, which was distressing for viewers.

Many viewers were offended by the later decision to evict Emma, rather than any of the other protagonists. This was seen to condone unacceptable aggression, and unfair (and therefore exploitative) to Emma herself.

Response

Channel 4 said the dynamics of human relationships and the behaviour of real people in an unusual setting are important elements of interest to *Big Brother* viewers. *Big Brother* was therefore not solely about entertaining viewers or the prize at the end of the series, but was also intended to have, and was perceived by viewers as providing, an interesting insight into these aspects of psychology.

Channel 4 said that the audience deserved to see what happened in the house, even where it involved extreme behaviour, provided that the footage was responsibly edited for its slot and fair to the housemates, given that they had consented to appear on a very well known, high profile series.

On all series of *Big Brother*, the production team sought advice from an experienced psychologist on all aspects of the series and on the likely impact on the individual housemates. That expert was independent of the production team, and their responsibility was to ensure the psychological well being of the housemates and to advise the production team accordingly.

In terms of the reintroduction of Emma and Michelle into the house, it was decided that it would be best to do that in the context of a relaxed and upbeat party. Although there was to be some alcohol provided, there was also a significant quantity of food. Full consideration was given to the possibility of some friction but it was genuinely believed that, in this environment, any such friction would be at a manageable level. Housemates had returned to the house before in previous series.

The conflict only arose very late at night. For the majority of the evening relations between the housemates were relatively cordial. At the first indication of a problem it was decided to deploy security staff in the camera runs which circled the house. The security guards, having closely monitored developments, entered the house at the point where it became apparent that the conflict was not going to peter out of its own accord.

The live programme on E4 contained footage of much of the conflict between the housemates. Channel 4 said that viewers would have been aware of the potential for conflict across the series, and the build up of tensions on this night. Although feelings were clearly running very high, there was not very much physical contact, and certainly no injuries. The conflict primarily involved pushing and shouting, with others holding some housemates back. Although these were not comfortable scenes to watch, it was important that, unless absolutely essential, the events in the house should be relayed to viewers with minimal editing or sanitising.

Channel 4 said that the fact that the incident continued to be transmitted until the shouting and screaming had abated would have served to reassure viewers that the outcome was not as bad as they might otherwise have imagined. The decision to cut to the 'safety shots' of certain household and garden items was taken precisely at a point when the conflict had subsided.

Housemates gave fully informed consent to take part in the *Big Brother* experience and were aware that they were being filmed 24 hours a day. However Channel 4 accepted that they were entitled to be portrayed fairly and with due respect.

Channel 4 said that the conflict obviously had to be portrayed in the *Big Brother* programme broadcast at 22.00 hours the following day. However, the footage was very carefully edited to ensure that what was broadcast was both sensitive and responsible, taking into account both the expectations of the audience and the broadcaster's responsibilities to the housemates. In order to alert viewers to the nature of the content, there was a pre-transmission announcement saying "...scenes of confrontation between housemates which some viewers may find disturbing, plus strong language throughout".

There was a further on-air announcement immediately before the relevant part of the programme which said: "Now scenes of confrontation between the housemates which some viewers may find disturbing, plus strong language throughout".

Channel 4 said that it was surprised that anyone took the view that the postponement of evictions could be designed to increase tension – it was a decision taken for exactly the opposite reason, and as such played its part in restoring relative harmony, indeed the police supported this decision. Similarly, it was clearly not a reward for aggressive behaviour

– it was merely a postponement.

Advice from the psychologist led Channel 4 and the production team to isolate Emma following the conflict, and subsequently remove her from the house. It was the psychologist's view that Emma needed to be separated from the other housemates for a short period of time in order for there to be a chance for things to cool down. The psychologist and the production company felt that it was best to place her in the bed-sit, as this was an environment she was familiar and comfortable with.

The psychologist advised that in the circumstances the only viable option was for Emma to leave the house. This was explained to her and she understood and accepted the position. Subsequently, Emma had an enjoyable week appearing on *Big Brother's Little Brother* and clearly was absolutely fine with the outcome. Although Channel 4 accepted that this may have led to a perception of unfairness to Emma, the harmony subsequently restored to the house immediately afterwards vindicated the action taken.

Channel 4 said that it operated a careful policy to exclude all libellous comments from the crawler captions. The majority of comments sent by viewers were critical of the behaviour of the housemates and some suggested that those involved should be evicted. The texts shown obviously reflected a range of opinions expressed by viewers on what they were viewing, and as such certainly did not constitute the production company's or broadcaster's perspective.

Decision

This was the fifth series of *Big Brother*, which is by now well established. Both the participants and the audience know the format and broadly, what they can expect from the programme. This understanding shapes how participants see their contribution to the programme and how audiences react to it.

Exploitation / welfare of participants

The participants in *Big Brother* are consenting adults who have actively agreed to take part in the programme. The majority of adults can make informed judgements about participating in such programmes and it is not for Ofcom (or the general public) to make that decision for them. People that participate in programmes (and others directly affected by a programme) do have recourse, if they feel that they have been treated unfairly in the programme or their privacy has been infringed without justification, to complain to Ofcom. The general public cannot complain on their behalf.

Channel 4 has confirmed to us that none of the housemates have made any complaints to Channel 4 about the incident or their treatment. Neither Ofcom (nor its predecessors) has to date received a complaint about unfairness or unwarranted infringement of privacy in any *Big Brother* series from any of the participants.

Considering the now well known format of *Big Brother*, it is clear that participants know, to a large degree, what they are letting themselves in for. Of course, as Channel 4 agrees, this does not absolve the broadcaster from its duty of care towards those individuals, but it does indicate that participants feel that they get, to a greater or lesser degree, something out of the experience of taking part in the programme. We have no evidence that participants in *Big Brother* feel that they have been exploited.

The audience reaction

We believe that *Big Brother* is generally regarded by the audience as an entertainment programme and a game show. Part of the attraction is the insight the audience gets into the 'private' lives and emotions of the participants. The interactive format invites viewer participation, both within the programme and through additional services (interactive and website). This encourages an audience familiarity with the participants that is not necessarily present in other programmes. This to some extent explains the reaction of some viewers to the editions showing the live coverage on the 17 June and the re-cap of events the following evening.

We recognise that both the E4 live coverage and the Channel 4 *Big Brother* highlights programme were scheduled late at night and that the latter's continuity announcements gave an indication of the type of content viewers could expect. The live coverage on E4 was preceded by an announcement warning of "strong language and adult content". Nevertheless, it does appear that the programmes containing the confrontation in the house exceeded the expectations of the audience.

Many of those who complained described themselves as ardent *Big Brother* viewers but said that they did not expect aggression to escalate, unchecked, to this point. The nature of the *Big Brother* programme – a reality programme with 'real people' interacting in 'real time' (the events were apparently unfolding as they watched) – meant that the audience related to the scenes in this entertainment programme in a different way to if they had seen them in a drama or soap opera. Viewers' offence and distress arose from the images (and audio) on screen, but were compounded by their knowledge of the programme format (in that the situation was within the control of Channel 4).

The events shown in the *Big Brother* highlights programme on Channel 4 were appropriately edited and scheduled. This programme was not in breach of the Code.

However, we acknowledge the concerns of the viewers of *Big Brother Live* on E4, who knew the full background to the situation, and who saw a potentially dangerous situation develop and who had no way of predicting the outcome of this situation. This was frightening and concerning for some viewers, so much so that some called the police. Although the voice of *Big Brother* tried to calm the situation by

summoning housemates to the Diary Room, it was approximately 20 minutes (in real time) from when the fight turned physical to when security guards entered the house. The apparent absence of intervention by Channel 4 to prevent the situation escalating to this point, having 'engineered' the situation originally, clearly caused distress and offence to viewers. While accepting that security men may have been positioned, the production team's eventual intervention appeared to be too late, particularly since the confrontation had turned physical. The offence was compounded by the text message captions running at the bottom of the screen, which gave viewers the impression that Channel 4 was continuing to treat as entertainment, a situation that had, from what viewers could see, become serious.

In this context, we feel that the intensity and repetition of verbal and physical violence exceeded viewers' expectations.

Big Brother Live on E4 was in breach of Section 1.1 (General Offence) of the Programme Code.

Hearth at Home on Abortion BEN Television, 6 June, 23:00

Introduction

This hour-long programme, produced and presented by Rodney Hearth, was about abortion. It consisted of two pre-existing films, separated by a studio interview with Jim Dowson, a Scottish Minister of Religion. The two films were:

- (i) *A Doctor Explains the Abortion Procedures*, presented by Dr Noreen Johnson, an American obstetrician and gynaecologist.
- (ii) *The Silent Scream*, presented by Dr Bernard Nathanson, an American obstetrician and gynaecologist.

A viewer complained that the programme was “biased” and too graphic.

Response

BEN Television said that this programme followed a live show on the same subject. *Hearth at Home on Abortion* was meant to balance the prior programme. However, the broadcaster was unable to supply a tape of this programme because it “didn’t at that time record live shows due to technical problems”.

Decision

There were warnings about the graphic nature of the programme’s content at the beginning of the programme and within it. These, together with the late hour of broadcast, fulfilled the broadcaster’s obligations to warn viewers of content they might find distressing or offensive.

The abortion issue is a politically controversial issue and so needs to be treated with ‘due impartiality’. Therefore, the subject matter in the programme should either be treated impartially or an opportunity for the expression of alternative points of view should have been given in another programme.

However, the message of the first film, *A Doctor Explains the Abortion Procedures*, although purportedly neutral, was aversive. The second film, *The Silent Scream*, was graphically illustrated and strongly anti-abortion. Footage of Jim Dowson protesting outside an abortion clinic confirmed the anti-abortion views he expressed in his interview with Rodney Hearth. The interviewer’s role in this exchange was more of a ‘feed’ than a challenging interrogator.

The broadcaster provided no video evidence of the earlier programme on abortion so we were unable to assess whether this programme did provide the required balance.

Failure to record output is a serious breach of a licence. Any further failure to do so will result in the consideration of a

statutory sanction.

The channel was in breach of its licence condition.

Rosemary & Thyme

ITV1, 27 June, 17:00

Introduction This drama features two gardeners, Rosemary and Laura, who turn into amateur sleuths when confronted with murder. Six viewers were concerned at the amount of swearing (including “bastard”, “bollocks” and “pissed off”) in this programme shown at 17:00 when large numbers of children are watching television.

Response Channel Television explained that ITV1 had decided to schedule occasional detective-style drama repeats on Sunday afternoons. *Rosemary & Thyme* had been previously shown at 21:00, although it was not specifically intended as a post Watershed series, and it was felt that this gentle drama was suitable to be repeated in a 17:00 slot.

When re-viewing this episode, Channel Television said that it had noted the mild swearing scattered in the second half, but felt that most viewers would consider it inoffensive. It also believed that the series would have little or no appeal for a child or younger viewer. Audience figures showed that only 4.2% of the available child audience watched this programme.

The broadcaster believed that this level of swearing was justified dramatically and would be unlikely to offend the audience for *Rosemary & Thyme*, given its lack of appeal to younger viewers.

Decision The Programme Code advises broadcasters that swearing should not be used frequently before the watershed. Although most of the swearing in this drama is considered relatively mild, we know from audience research that words such as “bastard”, “bollocks” and “pissed off” can be offensive to some viewers, especially when they are watching with children.

Even though relatively few children were watching, we believe that viewers should reasonably expect to be able to watch ITV1 on a Sunday afternoon without encountering the repetitive use of swearing.

The programme was in breach of Sections 1.2 (Family Viewing & The Watershed) and 1.5 (Bad language) of the Programme Code.

Pop TV

Southampton Television, 30 March, 23:00

Introduction

Southampton TV holds a Restricted Service Licence. A viewer complained that the presenter of this programme made an offensive joke, referring to "gypo's" (i.e. gypsies) eating off rubbish dumps. He was also offended by the presenters using the term "gay" in a pejorative manner.

Response

Six TV Southampton, as the service is now called, said that on 2 March, MyTV Network and Southampton Television had gone into administration. Only two regular series had continued to be broadcast – one of these was Pop TV – a studio programme featuring music videos and comedy. The producer of the programme was very apologetic about the first comment but said that the term 'gay' had not been used pejoratively but to "camp up" the programme. Due to his inexperience, the producer had continued to repeat the programme following the complaint, rather than withdrawing it from the playlist.

Unfortunately, the recording of the broadcaster's output had stopped while it was in administration but this had now been reinstated. Under the administrators the company was operated by a single paid employee who was unable to keep up with the logging tapes. A master tape never existed of the programme as although normally all programmes were recorded to tape as well as onto the playout server, in this case the producer failed to observe correct procedure. The repeats were possible as the programme existed as an MPEG file on the computer server playout system and did not come from tape. However, that file was deleted when the programme was no longer needed to keep the limited disk space available for further programming. Both the producer of the programme and the employee who was responsible for the logging tapes had since left the company for unconnected reasons.

The broadcaster said that the situation arose through a set of coincidences that were possible only due to the exceptional circumstances that arose once Southampton TV Limited declared voluntary liquidation. Under the new owners, (Milestone PLC) these circumstances would not arise again. Systems now ensured that the logging tapes were renewed daily and all programming was kept on broadcast quality digital tape.

Decision

As Southampton Television was unable to provide a tape of the programme, it was not possible to make a judgement about the code issues involved.

We consider this failure a serious issue and will consider further regulatory intervention if this occurs again.

In failing to provide a tape, the channel was in breach of its licence condition.

Standards cases

Resolved cases

LBC
11 September, 20:30

Introduction Five listeners complained that a presenter made inappropriate comments when discussing Hurricane Ivan hitting Jamaica. He suggested that some of the residents might be 'too high' to notice.

Response LBC accepted that the comment was insensitive and ill-judged. It had given an apology on air a few minutes later.

Decision We thought that the presenter's flippant comments were offensive. He subsequently read out an email from a listener criticising him for making such a tasteless remark and then apologised, saying that no offence had been intended. In view of the presenter's swift apology we consider the matter resolved.

Complaints Resolved.

Football Heaven
BBC Radio Sheffield, 2 March, 19:45

Introduction A listener complained that swearing could be heard during the match commentary for the Sheffield United v Millwall game. Despite a move to an alternative commentary position, obscenities from the chanting crowd were still audible.

Response The BBC told us that this match presented particular difficulties for the commentators. The police had closed the normal commentary position for safety reasons and the club arranged space among the home crowd for the commentary team. While they were introducing the game, it became clear that the area was too noisy. When the singing started it included obscenities which were just about audible and a decision was taken to return to the studio and take commentary from another game while the situation was being assessed.

The commentary team then moved back from the chanting section of the crowd and when they were satisfied that the situation had calmed, their commentary went back on air and continued until the end of the game. The commentators had switched to lip microphones in an effort to reduce the background noise. However, the crowd feed remained higher than normal and some chanting was still audible. The commentary team did apologise on air for the problem. After the match, discussions were held with the club about the unsatisfactory commentary position and an alternative location was found for future games. The problem has not recurred.

Decision In view of the action taken at the time of the broadcast and subsequently, we consider the matter resolved.

Complaint Resolved.

Outtake TV
BBC1, 16 July, 20:30

Introduction A viewer complained that the subtitles accompanying the outtakes in this programme contained serious swearing ("fuck", "fucking hell"), even though the audio had been bleeped. They felt that this was inappropriate for a programme broadcast before the watershed.

Response The BBC said that it regretted the offence caused by what was a very unfortunate misunderstanding between departments. The department responsible for preparing pre-recorded subtitles was provided with a tape of the programme which it understood was in its final form, edited and ready for transmission. In fact this was not the case. The programme department subsequently bleeped the strong language, and that was the form in which the programme was transmitted. But this change was never communicated to the subtitling department. Consequently, the subtitles reflected the "unexpurgated" version.

Discussions had since taken place between the department responsible for delivering tapes for subtitling, and the subtitling department. It had been re-emphasised that no tape should be passed through for subtitling unless it has confirmed "T-status" (i.e. the version of the programme ready for transmission). Any exception would only be at the specific request of Subtitling. Secondly, it had been agreed that subtitlers would alert Transmission and question the inclusion of any strong language in pre-watershed programmes.

Decision We agree that the inclusion of the swearing in the subtitles was unfortunate, given that this was a pre-watershed programme. However, in view of the broadcaster's action, we consider that the matter has been resolved.

Complaint resolved.

Big Brother 5 Channel 4, various dates

Introduction

Separate to the altercation (see previous finding), we received 240 complaints about various other issues in *Big Brother 5*. We asked Channel 4 to respond particularly to the concerns listed below.

8 July, 22.00

We received 25 complaints about this edition, which included the housemates playing 'truth, dare or kiss'. Complainants likened the content to a 'porn' film and said that it was inappropriate, especially as *Big Brother* attracts a young audience.

14 July, 00.20

One viewer complained about the use, in a text message from a viewer, of the term "jungle bunny" to describe Victor. The complainant felt this was a racist term.

20 July, 22.00

Four viewers complained about this edition, which featured Michelle and Stuart apparently having sex under the table. The complainants felt that 'real sex' should not be shown on television.

22 July, 22.00

We received nine complaints about offensive language and Victor's aggressive behaviour. The complainants noted that while the first use of the word "cunt" was not bleeped, subsequent occurrences were. Viewers also objected to other strong language, including variants of "fuck", which were used in an "aggressive manner" throughout the programme.

Response

8 and 20 July

Channel 4 said that the sexual content of the programmes was minimal and entirely appropriate for the time at which they were scheduled for broadcast. There was clearly a significant amount of nudity, and high-spirited behaviour whilst naked, but that did not in the Channel's view equate in any way to 'soft porn'.

14 July

The brief text message referring to "jungle bunny" inadvertently appeared on screen and Channel 4 said it was clearly regrettable. All text messages first passed through a profanity filter that automatically scanned the message for words that may be considered offensive, as contained in the filter's pre-defined list. Every text message that successfully

made it through the profanity filter was then reviewed individually by a trained moderator. However a moderator's judgment will inevitably contain an element of subjectivity. There is unfortunately always a risk that a judgment made by even the most experienced moderator may occasionally fall on the wrong side of the line. Channel 4 accepted that for many people the term 'jungle bunny' was offensive and accordingly accepted that this message was not an appropriate one for broadcast.

As soon as it was aware that this particular message had gone out Tempero [the company supplying the moderation] were contacted and an explanation demanded. Unfortunately the profanity filter had not picked up the term as it works by filtering single words only, and therefore although the term 'jungle bunny' was on the list it was not added to the filter because neither of the single words which make up the phrase are considered offensive. Consequently this message was left to be reviewed by the moderator. The moderator in this case, although experienced, was a young person who was not aware that the term 'jungle bunny' was offensive. In the context of the topic she had genuinely believed that the term was describing Victor as 'gentle' and 'fluffy' – a bunny rather than the 'jungle-cat' he professed to be. 'Jungle bunny' as most people over 25 are aware, was a term coined in the middle of last century and commonly used in the 1960's and 1970's as a derogatory term to describe people of native African origins. However the term is no longer used with anything like the frequency it was.

22 July

In terms of language, Channel 4 was entirely satisfied that Shell's use of the word "cunt" in her confrontation with Victor was editorially justified. It was Shell's use of this word that provoked Victor's behaviour. It was therefore essential for viewers to know what was said in order to understand Victor's reaction. This matter was given very careful consideration editorially at the highest level and it was concluded that it was justified to show the use of the word by Shell. However, Channel 4 felt that further broadcast of the word was unnecessary.

Decision

8 July, 22.00

The programme was shown at 22:00 and was preceded by a warning referring to ... "nudity and strong language from the start". These sorts of antics are now common place in the *Big Brother* house and most viewers are likely to know what to expect. Considering that the programme was broadcast well after the watershed and preceded by a clear and unambiguous warning, we do not think that this edition of *Big Brother* exceeded viewers' expectations.

14 July, 00.20

The transmission of the term 'jungle bunny' appears to be a genuine mistake by someone who was simply not familiar with the term. It is an expression, while still offensive, that has ceased to be commonly used. We are confident that the broadcast of this term was an isolated one. We welcome that, as a result of this incident, the general issue of potentially offensive terms for minority groups in Channel 4's interactive services output has been discussed at a senior level and Temporo has researched a more comprehensive list of racist expressions and circulated it to the attention of all their moderators.

As an added back up, Channel 4 said that all future moderation staff would be made aware of this incident and reminded of the importance of not releasing any text message they had any doubt about or were unfamiliar with. The broadcaster did not in any way seek to condone or justify the general use of the phrase 'jungle bunny' as an abusive term. Given the circumstances and the manner in which Channel 4 has handled it, we consider this matter resolved.

20 July, 22.00

Stuart and Michelle were seen constructing and entering a 'tent' under the table. The broadcast shots of the 'tent', with the couple inside, were selected very carefully to ensure they were not gratuitous or explicit. Viewers could see very little. No nudity or actual sexual activity was broadcast. Viewers were left to speculate as to exactly what went on in the 'tent'.

Considering that the programme was broadcast well after the watershed, preceded by an appropriate warning and contained no sexual nudity, we don't believe this edition of *Big Brother* breached the Programme Code.

22 July, 22.00

The use, by Shell, of what some consider the most offensive language was the key to understanding Victor's reaction. We recognise that some viewers find this language unacceptable in any circumstances. However, in this incident we recognise there was editorial justification in explaining the storyline to the audience. Without it, viewers may not have understood what provoked Victor's behaviour. Therefore, on balance, we felt the use could be justified given the context of this programme, the scheduling of the edition and the clear warning before the programme along with the editorial rationale.

**14 July: Complaint resolved.
8, 20 & 22 July: Not in Breach.**

Standards cases

Not in Breach

Borat's Television Programme Channel 4, 13 August, 22:00

Introduction

So-called Kazakhstani journalist, Borat is a creation of comedian and satirist Sacha Baron Cohen (Ali G). This programme contained various sketches in which his character confronts different people, some in public office, and tries to get them to agree with his own outrageous perspectives on a number of controversial issues. Usually, either through courtesy in front of the cameras, or an inability to penetrate Borat's deliberately obscure accent, the targets are tricked into making some kind of bizarre responses of their own.

In this sketch, Borat appears at a country & western bar in the US and sings a song that, he claims, they sing in his homeland. The song starts off innocuously enough, but soon descends into a vicious racist song against Jews.

Six viewers complained that, despite the context, the material was racist and went beyond the bounds of acceptable satire.

Decision

While we understand the viewers' opinion that the context should be separated out from the actual words used, this is not possible or practicable. The context is very much part of why this particular material was used in this particular way. We understand that some concerns were raised as a result of the lyrics being reproduced in a newspaper - when such a context was understandably not available.

It was clear that the satirical intention of the piece was achieved - as many of the audience joined in the singing, the point being that this was confirming this particular group in its own prejudices, or in its naivety.

In our opinion, where such hard-edged comedy is concerned, it is very difficult to censure a characterisation if its purpose is to use the very attitudes which it intends to mock. This technique has been part of the satirical landscape in the UK for many years - most notably in screen 'monsters' like Alf Garnett.

We believe that the majority of the audience understands that this is a grotesque characterisation and in no way intends to be representative of the people and policies of Kazakhstan; it is a device to throw into sharp relief the attitudes and reactions of others; particularly those in the West.

The programme was not in breach of the Code.

Fairness and Privacy cases

Where a complaint is upheld, a summary of the adjudication is included. Where a complaint is not upheld there is only a note of the outcome. For a copy of the full adjudication in either case go to Ofcom's website at www.ofcom.org.uk/bulletins/ or send a stamped addressed envelope to: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

Upheld in part

Complaint by Michael Flanigan (Solicitors) on behalf of Mr Freddie Scappaticci

Panorama: What Happened Next? BBC1, 13 July 2003

Ofcom received a complaint of unfair treatment and unwarranted infringement of privacy from Michael Flanigan (Solicitors) on behalf of Mr Freddie Scappaticci about *Panorama: What Happened Next?* broadcast on BBC1 on 13 July 2003. Ofcom upheld in part the complaint of unfair treatment but not that of infringement of privacy. This special edition of the current affairs programme revisited an earlier investigation into alleged collusion between the British security services and paramilitary groups in Northern Ireland. The programme stated that Mr Freddie Scappaticci was an agent of the security services operating under the codename "Stakeknife", despite denials from Mr Scappaticci. The programme also included a reconstruction of parts of a transcript of a secretly recorded conversation between Mr Scappaticci and makers of an edition of *The Cook Report* in 1993. Ofcom found that:

- it was not unfair of the programme to identify Mr Scappaticci emphatically as the agent known as 'Stakeknife' because this identification had previously received wide publicity and was set within the context of the unique difficulties of investigative journalism in Northern Ireland and the importance of investigative journalism in assisting public understanding;
- it was unfair of the programme makers not to have made sufficient or timely efforts to contact Mr Scappaticci to offer him an opportunity to respond to the allegations made against him in the programme;
- it was unfair of the programme inadequately to present Mr Scappaticci's denial of the identification;
- it was not unfair for the programme to question why the IRA had failed to take action against Mr Scappaticci in light of the widespread reporting of the allegation that he was the agent known as "Stakeknife" and given that the programme made clear that publicly the IRA was giving Mr Scappaticci the benefit of the doubt and included a statement from Mr Gerry Kelly of Sinn Fein that the allegation was unsourced and unsubstantiated;
- it was not unfair of the programme makers to have refused Michael Flanigan a transcript of a taped interview with Mr Scappaticci, secretly recorded in 1993, in advance of the programme, because they had supplied a summary of it in advance; and
- the programme's use of a reconstruction of the taped interview did not unwarrantably infringe his privacy because there was an overriding public interest in hearing what he said.

Unfairness - Upheld in part.

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Mr Paul McKenna	<i>The Dark Side of Stage Hypnotism</i>	23 September 2003 Channel 4	Unfairness
Miss Helen Slaughter	<i>Dispatches – Fit to Eat</i>	13 May 2004 Channel 4	Unwarranted infringement of privacy
Ms Gillian McCarthy	<i>Inside Out</i>	9 June 2003 BBC 1 (South West)	Unfairness

Other programmes not in breach/out of remit (14 September– 27 September)

Programme	Channel	Category	Tx Date	No. of Complaints
60 Minute Makeover	ITV1	Offence	-	1
America's Next Top Model	Five	Language	20/09/2004	1
Bad Lads Army	ITV1	Offence	19/08/2004	2
Baise-Moi	Sky Cinema	Sexual Portrayal	07/07/2004	1
BBC Midlands Today	BBC1	Offence	21/07/2004	1
BBC News	BBC1	Offence	12/09/2004	1
BBC News	BBC1	Offence	20/09/2004	1
BBC News 24	BBC News 24	Regionality	-	1
BBC Radio 4	Radio 4	Language	10/09/2004	1
BBC Six O'Clock News	BBC1	Offence	24/02/2004	1
BBC Six O'Clock News	BBC1	Offence	15/09/2004	2
Big Brother	Channel 4	Sexual Portrayal	20/07/2004	4
Big Brother	Channel 4	Sexual Portrayal	08/07/2004	1
Big Brother	Channel 4	Offence	-	1
Bognor or Bust	ITV1	Offence	02/09/2004	1
Bollywood Star	Channel 4	Offence	20/09/2004	1
Californian Escorts	Five	Sexual Portrayal	19/09/2004	1
Cathouse 2: Back in the Saddle	Channel 4	Sexual Portrayal	07/06/2004	1
CBBC	BBC1	Offence	14/09/2004	2
Cellular	ITV	Scheduling	12/09/2004	1
Channel 4 News	Channel 4	Offence	19/07/2004	1
Channel 4 News	Channel 4	Impartiality	13/09/2004	1
Channel 4 Racing	Channel 4	Misleading	01/07/2004	1
Chart Show TV	Sky Digital	Sexual Portrayal	18/09/2004	1
Colin and Justin's How Not to Decorate	Five	Offence	29/08/2004	1
Coronation Street	ITV1	Language	22/09/2004	3
Coronation Street	ITV	Language	23/09/2004	1
Country House	BBC2	Language	10/09/2004	1
Crusades	UKTV History	Sexual Portrayal	12/09/2004	1
dick and dom in da bungalow	BBC1	Offence	15/09/2004	1
dick and dom in da bungalow	BBC1	Offence	13/09/2004	1
Doc Martin	ITV1	Offence	02/09/2004	1
Doctor Sleep	BBC2	Offence	02/09/2004	1
Eastenders	BBC1	Offence	12/09/2004	1
Eastenders	BBC1	Offence	14/09/2004	1
Emmerdale	ITV1	Offence	01/06/2004	1
Emmerdale	ITV1	Offence	10/09/2004	1
Emmerdale	ITV1	Sexual Portrayal	14/09/2004	1
Emmerdale	ITV1	Offence	24/09/2004	1
Emmerdale	ITV1	Offence		1
Eric Prydz - Call On Me video	The Hits	Offence	07/09/2004	1
Erotica	Granada Plus	Sexual	09/08/2004	1

		Portrayal		
Five Movies Sponsor Peugeot 206	Five	Violence	05/09/2004	1
5 news	Five	Violence	18/07/2004	2
5 news	Five	Violence	17/09/2004	1
Fox News	Fox News	Offence	21/05/2004	1
Get Lucky TV	Get Lucky TV	Offence	16/09/2004	1
GMTV	ITV	Offence	06/09/2004	1
GMTV	ITV1	Offence	20/09/2004	1
GMTV News	ITV1	Impartiality	16/09/2004	1
Going Straight	Channel 4	Offence	21/09/2004	1
Going to Extremes	Channel 4	Offence	26/08/2004	2
Grandstand	BBC	Offence	31/07/2004	1
Green Wing	Channel 4	Offence	17/09/2004	4
Guinness World Records	ITV1	Misleading	11/09/2004	1
Guinness World Records	ITV1	Offence	11/09/2004	1
Hellboy Film Trailer	ITV	Scheduling	-	1
Hollyoaks	Channel 4	Offence	09/09/2004	2
Horizon	BBC2	Misleading	16/09/2004	1
Horizon	BBC2	Accuracy	16/09/2004	1
House Trapped	Channel 4	Language	16/09/2004	4
How Gay are You?	Sky One	Offence	31/05/2004	1
Ideal World	Ideal World	Misleading	-	1
In the Know	BBC1	Offence	17/07/2004	1
ITV News	ITV1	Impartiality	10/08/2004	1
ITV News	ITV1	Impartiality	07/09/2004	1
ITV News	ITV1	Offence	17/09/2004	1
Jazz FM	Jazz FM	Misleading	-	1
Kennedy Assassination: Beyond Conspiracy	BBC2	Impartiality	01/09/2004	1
Lights, Camera, Accident	Five	Scheduling	31/08/2004	1
Local Radio Output	Broadland 102	Offence	-	1
London Tonight	ITV1	Offence	07/09/2004	1
Loose Women	ITV1	Offence	15/06/2004	1
Made for Each Other	Channel 4	Offence	08/09/2004	1
Messiah 3	BBC1	Scheduling	30/08/2004	1
Mid Morning Boogie	Isle of Wight Radio	Offence	03/09/2004	1
MTV Hits	MTV	Offence	26/07/2004	1
Newsround	BBC1	Offence	20/09/2004	1
Nick Ferrari	LBC97.3	Offence	10/08/2004	1
Panorama	BBC1	Offence	22/09/2004	1
Paradise Island	Discovery	Offence	27/08/2004	1
Parkinson	ITV1	Offence	04/09/2004	1

Peugeot Sponsorship	Five	Offence	-	1
Popetown	BBC	Religious Offence	-	1
Public Opinion	BBC1	Offence	13/09/2004	1
Radio 1	BBC Radio 1	Offence	06/09/2004	1
Ramsays Kitchen Nightmares	Channel 4	Language	04/05/2004	1
Real Radio FM 105-106	Real Radio FM	Offence	-	1
Revelation TV	Revelation TV	Religious Offence	18/08/2004	1
Rhona's Rudest Home Videos	ITV	Offence	24/08/2004	1
Richard and Judy	Channel 4	Religious Offence	10/09/2004	2
Richard and Judy	Channel 4	Offence	20/09/2004	2
Richard and Judy	Channel 4	Offence	21/09/2004	1
Richard and Judy	Channel 4	Offence	22/09/2004	1
Scotland Today News	BBC1	Misleading	-	1
Silent Witness trailer	BBC1	Scheduling	03/09/2004	1
Sky News	Sky News	Offence	31/08/2004	1
Sky News	Sky News	Offence	-	1
Soccer AM	Sky Sports One	Offence	04/09/2004	1
South Park	Channel 4	Offence	28/08/2004	1
Star Trek	Sky One	Offence	-	1
Star TV	Star TV	Sexual Portrayal	05/09/2004	1
Steel River Blues	ITV1	Offence	01/09/2004	1
Steel River Blues	ITV1	Offence	08/09/2004	2
T4	Channel 4	Offence	-	1
T4	Channel 4	Language	-	1
Talksport	Talksport	Offence	-	1
Talksport	Talksport	Offence	21/07/2004	1
Teletext	Teletext	Misleading	-	1
The Bill	ITV1	Offence	04/08/2004	1
The Chart	Five	Scheduling	11/09/2004	1
The Chart	Five	Sexual Portrayal	04/09/2004	1
The Chart	Five	Scheduling	26/09/2004	1
The Gadget Show	Five	Impartiality	31/07/2004	1
The Joy of Sex Education	Five	Sexual Portrayal	16/09/2004	2
The Joy of Sex Education	Channel 4	Offence	21/09/2004	1
The OC	Channel 4	Misleading	31/08/2004	1
The World Tonight	Radio 4	Accuracy	16/09/2004	1
The Worst Job in History	Channel 4	Religious Offence	28/08/2004	1
The X Factor	ITV1	Offence	-	1
They Think it's all Over	BBC1	Language	09/09/2004	1
Too Posh to Wash	Channel 4	Offence	21/09/2004	2

Torso in the Thames	Channel 4	Scheduling	21/09/2004	1
Trisha	ITV1	Offence	16/09/2004	1
Trisha	ITV1	Offence	20/09/2004	2
Trisha	ITV1	Offence	21/09/2004	1
Waking the Dead	BBC1	Violence	11/07/2004	1
Weakest Link	BBC2	Offence	23/09/2004	2
Why Chimps Kill	Five	Offence	08/09/2004	1
WWE Wrestling	Sky One	Violence	04/09/2004	1
You are what you eat	Channel 4	Offence	-	1