

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. These will be published at the end of 2004 following a full public consultation.

The Codes currently in force for programming are:

- **Advertising and Sponsorship Code**
Radio Authority
- **News and Current Affairs Code & 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

These are all available on the Ofcom website: www.ofcom.org.uk

The cases have been considered against the above Codes.

- Some programmes will have breached the relevant code (Upheld).
- Others will not have breached the code (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). Ofcom will consider that these complaints have been resolved. 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 layout of the report reflects these distinctions.

Standards cases

Breaches

World in Focus

Revelation TV, 5 January, 13:45

Issue

Revelation TV is a UK-based Christian channel offering live phone-ins. *World in Focus* interviews Christians and other guests on issues from a Judeo-Christian perspective. During the controversy surrounding the appointment of openly gay bishops, the presenter gave a four minute polemic about his views on homosexuality in general as well as homosexuality within the Church. A viewer considered that his comments were overtly homophobic and offensive.

Response

Revelation TV argued that it was sometimes necessary to make a stand for “such Godly laws and principles”. The presenter, Revelation TV claim, felt “compelled to speak out... in love and respect for others, allowing each person to exercise their free will, to choose or not to choose, to take heed of any spiritual guidance offered... As an ordained minister of the Gospel, [the presenter has] a responsibility to obey God as ruler rather than men (as the scripture says)...”

However, Revelation TV also said that it was saddened that it had upset a viewer who felt that the presenter had not respected their choice of lifestyle. It had not purposely set out to do so and sincerely regretted that this appeared to be the case on this occasion. It went on to point out that it was in dialogue with a Christian and gay viewer, who had been invited on to a programme to air his opinions and views.

Decision

We accept that alternative views will be aired on this service at some point. However, a presenter must not use his position unfairly to promulgate his own views. During the application process, the licensee was reminded of the need for balance and respect for others’ beliefs where sensitive matters were concerned. It was clear from the highly public debate over gay bishops that many Christians do not feel the same way as the presenter. This position was, in our view, not properly represented by the broadcaster in this programme. We believed that this went well beyond what is acceptable in terms of opinion on such a channel and that his comments about homosexuals were derogatory.

***World In Focus* was in breach of Sections 1.8 and 7.6 of the Programme Code dealing with respect for human dignity and avoidance of denigration of others’ beliefs.**

News

The Saint, 30 April, 09:00

Issue

The parent company of Southampton Football Club (SFC) – Southampton Leisure Holdings PLC – own The Saint radio station. A listener complained that a news bulletin included an interview with a member of SFC staff promoting their season tickets and considered that this was not impartial news.

Response

The Station Director acknowledged that the output was questionable and conceded that they “...had not fulfilled the requirements of the News and Current Affairs Code.” The on-air team had been briefed about such matters and the Station Director assured us that there would be no recurrence.

Decision

The item in the sports news started with, “it’s the last chance to get a ticket bargain here at St Mary’s today; 5.30 is the deadline for the early bird discount...” . The Code states that all news, in whatever form (including bulletins... and general coverage of news events), must be accurate and duly impartial.” The station had also been advised of the need to be scrupulous about matters of this kind when they took over the licence. The commercial link between the licensee and the football club made the content of the news item unacceptable.

The item breached Section 1.2 (News) of the News and Current Affairs Code in addition to Section 1, Rule 2 (Product Placement and Undue Prominence) of the Advertising and Sponsorship Code.

Jonathan Creek

BBC1, 14 February, 21:00

Issue In this light-hearted crime drama, a magician, Adam Klaus, was seen trying out a new trick on members of the public in the street. Experiencing a marked lack of success, he swore in frustration.

Six viewers complained that they did not expect to hear the word 'fuck' in this drama. Some also mentioned the lack of any warning before the programme.

Response The BBC said that no milder word would have conveyed this character's frustration and that Adam Klaus generally expressed himself strongly. However, this was the first time that this word had been used in the series and, although the programme-makers believed there was justification for its use, they did not intend to use it again. The BBC accepted that the programme should have carried a warning, particularly as nothing in previous programmes would have prepared viewers for the inclusion of such a strong word. Any future transmission of this episode would be preceded by a clear warning about the presence of strong language.

Decision We welcomed the BBC's recognition of the need to warn viewers. Audience research indicates that this word still retains the power to shock viewers, particularly when its use is unexpected.

Although scheduled after the 9pm watershed, this drama does not usually contain material that makes it problematic for a wide-ranging audience to enjoy. Given the unexpectedness of the language, its use so near the watershed at 9.08pm and the lack of a warning, we considered that viewers' long-established expectations were not fully taken into account.

The language contravened the Code on Standards

Not in breach

Coronation Street

ITV1, various episodes, April and May

Issue

In an ongoing storyline, Todd Grimshaw gradually realised that he was attracted to men, whilst continuing to live with his fiancée, Sarah Platt, who was expecting their child. Recently, he had started a relationship with Karl, a nurse at the hospital where Todd works. Over the past eight weeks, during this storyline, 89 viewers have complained about various aspects of Todd's relationship with Karl. Over the Easter holiday, Todd and Karl kissed for the first time and some viewers felt that this was unacceptable during a Christian holiday. Other viewers found this storyline, and, in particular, scenes of the two men kissing, difficult to watch with children. They felt that such storylines should be confined to after the 9pm watershed.

Decision

Some viewers, including parents, are not comfortable with any representation of homosexual behaviour whilst young children may be watching. However, we have to consider whether these relationships are portrayed in an appropriate manner, as with any sexual behaviour before the 9pm watershed. The Programme Code does not distinguish between the sexual orientation of characters, but requires sexual behaviour to be appropriately limited and inexplicit before the watershed.

Considering the general portrayal of relationships in this soap, we do not believe that Todd and Karl's behaviour was any more explicit than previously seen by viewers. The main focus of this storyline has been Todd's difficulty in dealing with his sexuality.

Given the storyline and the inexplicit portrayal of this relationship, we consider that these scenes were acceptable.

These episodes were not in breach of the Programme Code.

My Foetus

Channel 4, 20 April, 23:05

Issue

This programme's intention was to look at the reality of abortion, in order to provoke an informed moral debate. It was written, produced and directed by Julia Black, a woman in her thirties, and pregnant. However, she had had an abortion when she was 21. The programme contained images of aborted fetuses and also included what was claimed to be the first film on television of an actual termination procedure.

Ofcom received eight complaints about the programme, three of which were pre-transmission. The complainants who saw the programme described it as distressing, offensive and voyeuristic.

Decision

Ofcom does not preview programmes nor intervene prior to their transmission. It is not within our remit to set broadcasters' editorial agendas. They may make programmes about any issue they choose, as long as the treatment of that subject matter complies with the Programme Code.

This programme was preceded by a very clear warning about the nature of the content and it was also appropriately scheduled late at night. In our view, Julia Black was suitably objective in the programme, which was described as her "journey from abortion to motherhood", and remained rigorously non-judgemental. She acknowledged her 'pro-choice' background and views – her father had founded the Marie Stopes clinics – which the reality of a planned and wanted pregnancy was now challenging. She talked to people on both sides of the debate – those 'pro-life' (anti-abortion) and those 'pro-choice' (the woman's right to choose) – as well as those doctors who, with mostly mixed feelings, carried out the procedures.

We considered that the still images shown of aborted fetuses were an integral part of the debate being explored. The pictures were not used in a sensationalist or gratuitous (in the sense of being unnecessary) manner. Importantly the programme put what were certainly strong images into an overall editorial context. The footage of the termination procedure revealed nothing that was recognisably human.

The broadcaster provided a helpline for those affected at the end of the programme.

Overall, our view was that the programme treated a 'difficult' subject responsibly and with appropriate sensitivity.

The programme did not breach the Programme Code.

Derren Brown Séance
Channel 4, 31 May 22:30

Issue This Derren Brown one-off programme involved him conducting a series of purportedly psychic practices with a group of specially selected volunteers. Viewers at home were invited to participate in some of the items involving techniques such as Ouija and thought-transference. 170 viewers before transmission, and 74 after, complained about the trailers and the programme. They were concerned at the dangers involved in experimenting with the paranormal. A total of 11 viewers also wrote in support of the programme. A few viewers complained that it was showing spiritualism and associated practices in an unfair or inaccurate light.

Decision Derren Brown is well-known as a psychological illusionist. On his website he describes his craft as a mixture of applied psychology, magic, misdirection and showmanship. It was clear from the outset of this programme that none of the experiments he was about to embark on, in his view, actually involved genuine psychic practices. He made plain his mistrust of the techniques employed by Victorian psychics and explained that the two girls in the 19th century who instigated some of these techniques later revealed that they had done so as a practical joke or hoax. He clearly stated that he did not believe in spiritualism.

The purpose of the experiments, it seemed to us, was to demonstrate that people are still willing to suspend their disbelief if the techniques used are sufficiently convincing. At the end of the programme, Derren Brown informed people that the occurrences, such as the apparent paranormal behaviour surrounding the Ouija board, were actually simply subconscious acts on behalf of the participants. He also revealed that the subject of the séance had not died 30 years ago at all, but was in fact still alive and a participant in the 'experiment'.

We understand that a large number of viewers rang in to the live programme to report what they believed to be their own paranormal experiences. However, as stated above, Derren Brown is a well-known psychological illusionist and it was clear both in the programme and from various newspaper articles and websites surrounding the broadcast that he did not believe in such things as spiritualism. We recognise also that the trailers, and the programme to a certain extent, needed to create a certain mystique if the techniques were to be explored properly.

We further felt that to show viewers how mediums who are fraudulent might possibly use these techniques to trick the

vulnerable and susceptible was an acceptable element of the programme.

Whatever the actual techniques used in the experiments were, the Code allows for such phenomena to be examined, provided that they are part of a legitimate investigation and are shown after the watershed – which in this case they were.

Neither the programme nor trailers breached the Programme Code.

Other programmes not in breach/out of remit (26 May to 7 June)

| Programme name | Channel | Transmission date | Category | Number of complaints |
|--|-----------|-------------------|-------------------|----------------------|
| 100 Greatest Sexy Moments | Channel 4 | 01/05/2004 | Offensive | 2 |
| All for Love | BBC2 | 22/05/2004 | Offensive | 1 |
| All New TV's Naughtiest Blunders | ITV1 | 23/05/2004 | Language | 2 |
| As If | Channel 4 | 03/04/2004 | Scheduling | 1 |
| BBC News | BBC1 | 18/05/2004 | Offensive | 1 |
| BBC News | BBC1 | 19/05/2004 | Misleading | 1 |
| BBC News | BBC1 | 20/05/2004 | Accuracy | 1 |
| BBC News | BBC1 | 23/05/2004 | Offensive | 2 |
| Big Brother promotion | Channel 4 | 25/05/2004 | Offensive | 27 |
| Big John's Breakfast Show | Hallam FM | – | Offensive | 1 |
| BNP PPB (pre-transmission) | | – | Offensive | 34 |
| Breakfast | BBC1 | 26/05/2004 | Accuracy | 1 |
| Britain's Best Sitcom | BBC2 | 27/03/2004 | Offensive | 2 |
| Britain's Worst Husband (pre-transmission) | | – | Offensive | 1 |
| Brum (promotion) | BBC1 | 06/05/2004 | Offensive | 1 |
| C5 News | Five | 05/05/2004 | Accuracy | 1 |
| Channel 4 News | Channel 4 | 18/05/2004 | Offensive | 1 |
| Conflicts | BBC3 | 15/04/2004 | Offensive | 1 |
| CSI: Crime Scene | Five | 11/05/2004 | Religious Offence | 1 |
| Danger on the Beach | BBC1 | 21/04/2004 | Offensive | 1 |
| Das Boot | BBC2 | 30/05/2004 | Language | 1 |
| Dead Ringers | BBC2 | 10/05/2004 | Offensive | 1 |

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|---------------------------------|---------------------|------------|----------------------|---|
| Death in Gaza | Channel 4 | 25/05/2004 | Impartiality | 3 |
| Dispatches: First Class Post | Channel 4 | 29/04/2004 | Misleading | 8 |
| Distraction | Channel 4 | 16/04/2004 | Religious Offence | 1 |
| Distraction | Channel 4 | 07/05/2004 | Offensive | 1 |
| Doctors | BBC1 | 07/04/2004 | Scheduling | 1 |
| EastEnders | BBC1 | General | Offensive | 1 |
| Footballers' Wives | ITV1 | 17/03/2004 | Violence | 1 |
| Friends promotion | Channel 4 | – | Miscellaneous | 1 |
| From Our Own Correspondent | BBC Radio 4 | 01/05/2004 | Impartiality | 1 |
| Galaxy Breakfast | Galaxy | 15/03/2004 | Offensive | 2 |
| GMTV | ITV1 | 19/05/2004 | Offensive | 1 |
| God Channel | God Channel | 02/06/2004 | Religious Offence | 1 |
| Grand Designs | Channel 4 | 31/03/2004 | Misleading | 1 |
| GWR Swindon | GWR | – | Misleading | 1 |
| Harry Hill's TV Burp | ITV1 | 05/03/2004 | Religious Offence | 1 |
| Have I Got News For You | BBC2 | 08/05/2004 | Offensive | 2 |
| Hollyoaks | Channel 4 | 02/06/2004 | Offensive | 1 |
| I'm a Celebrity... 2 | ITV1 | General | Offensive | 2 |
| News | ITV News Channel | – | Offensive | 1 |
| Jo Whiley | BBC Radio 1 | 10/03/2004 | Language | 1 |
| Kiss 100 FM Breakfast | Kiss 100FM | 16/01/2004 | Offensive | 1 |
| Les Diabes | BBC | 26/02/2004 | Offensive | 1 |
| M.O.M | ITV1 | 01/05/2004 | Offensive | 1 |
| Memory Bank | Five | 13/04/2004 | Miscellaneous | 2 |

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|--------------------------------|-------------|------------|-------------------|---|
| Ministry of Mayhem | ITV1 | 24/04/2004 | Offensive | 2 |
| Never Mind the Buzzcocks | BBC2 | 26/01/2004 | Offensive | 1 |
| Now Show | BBC Radio 4 | 20/03/2004 | Offensive | 1 |
| Police Protecting Children | BBC2 | 23/03/2004 | Offensive | 8 |
| Popworld | Channel 4 | 19/12/2003 | Offensive | 1 |
| Question Time | BBC1 | 22/04/2004 | Offensive | 1 |
| Radio 5 | BBC Radio 5 | – | Impartiality | 1 |
| Ramsay's Kitchen Nightmares | Channel 4 | 18/05/2004 | Language | 3 |
| Religious Rituals: Shiite | Radio Faza | 02/03/2004 | Religious Offence | 1 |
| Revolver | BBC1 | 20/01/2004 | Offensive | 1 |
| Richard and Judy | Channel 4 | 19/04/2004 | Miscellaneous | 1 |
| Richard and Judy | Channel 4 | – | Miscellaneous | 2 |
| Rugby Six Nations | BBC1 | 21/02/2004 | Offensive | 1 |
| Scottish Passport | STV | – | Misleading | 1 |
| Simon Mayo | BBC Radio 5 | 08/03/2004 | Impartiality | 1 |
| The All Star Comedy Show | ITV1 | 06/05/2004 | Offensive | 1 |
| The Bill | ITV1 | 31/05/2004 | Language | 1 |
| The Jigsaw in Pieces | BBC Radio 4 | 24/03/2004 | Impartiality | 1 |
| The Legend of the Tamworth Two | BBC1 | 12/04/2004 | Violence | 1 |
| The Now Show | BBC Radio 4 | 20/03/2004 | Offensive | 1 |
| The OC | Channel 4 | 29/05/2004 | Sexual portrayal | 1 |
| The Politics Show | BBC1 | 23/05/2004 | Impartiality | 1 |
| The Thin Blue Line | UK Gold | 16/04/2004 | Sexual portrayal | 1 |
| The Wright Stuff | Five | 26/04/2004 | Offensive | 1 |

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|-------------------------------|-------------|------------|--------------|---|
| TMF – The Music Factory | TMF | 19/03/2004 | Offensive | 1 |
| Today | BBC Radio 4 | 05/04/2004 | Impartiality | 1 |
| Top Gear | BBC2 | 23/05/2004 | Offensive | 1 |
| TV's Naughtiest Blunders 7 | ITV1 | 13/04/2004 | Language | 1 |
| Two Way Stretch | Channel 4 | 09/03/2004 | Offensive | 1 |
| Weather Underground | BBC4 | 15/03/2004 | Violence | 1 |
| Who Wants to be a Millionaire | ITV1 | 20/03/2004 | Offensive | 1 |
| William and Mary | ITV1 | 14/03/2004 | Offensive | 1 |

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.

Not Upheld

| Complainant | Programme | Date & Broadcaster | Type of complaint |
|-------------|--|--------------------------------|--|
| Ms A | <i>Real Life: Noisy Neighbours</i> | ITV 1 Carlton, 23 June 2003 | Unwarranted infringement of privacy in making and broadcast of programme |