

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 to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for 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 (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it 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 requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

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

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

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

It is Ofcom's policy to describe fully 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.

Broadcast Standards cases

In Breach

Bumper 2 Bumper Drive Time Show ***Kemet Radio, 12 April 2017, 16:00***

Introduction

Kemet Radio is a community radio station for the African Caribbean and wider community in the inner-city areas of Nottingham. The licence for the service is held by Kemet Radio Limited ("Kemet" or "the Licensee").

Bumper 2 Bumper Drive Time Show broadcasts on weekdays between 16:00 and 19:00.

We received a complaint about the broadcast of Snowy's song, "Going On". Some offensive language had been edited out of the track, as broadcast, but one clear instance of "fuck" remained.

Ofcom considered the material raised an issue under the following rule of the Code:

Rule 1.14: "The most offensive language must not be broadcast...when children are particularly likely to be listening".

Ofcom requested comments from the Licensee on how the above material complied with this Rule.

Response

The Licensee said it plays only music from its playlist during daytime, adding that it also showcases local artists in its schedule. Kemet said that, in this instance, the regular presenter of its *Bumper 2 Bumper Drive Time Show* was on holiday and the cover presenter had included "Going On" in the programme, as Snowy was an artist from Nottingham. It added that the song, which had been provided to the cover presenter as a radio edit, had never been in Kemet's playlist and had not been given to its Programmer, who compiles and checks the playlist.

The Licensee agreed that the material "was patently not suitable for play at 6pm" and apologised for any offence the song may have caused, "especially to [its] listeners". It said that Kemet was "reviewing [its] systems and practices" and added that the cover presenter had been suspended and was on a "re-training programme".

Preliminary View

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Rule 1.14 states that the most offensive language must not be broadcast when children are particularly likely to be listening.

Ofcom's 2016 research on offensive language² clearly indicates that the word "fuck" is considered by audiences to be among the most offensive language.

The Code states that "when children are particularly likely to be listening", refers to, "the school run and breakfast time, but might include other times". Ofcom's guidance on offensive language in radio³ states:

"For the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all relevant information available to it. However, based on Ofcom's analysis of audience listening data, and previous Ofcom decisions, radio broadcasters should have particular regard to broadcasting content at the following times: ...between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays".

In this case, "fuck" was broadcast at 18:03 on a Wednesday afternoon during school holidays. The most offensive language was broadcast when children were particularly likely to be listening.

The material was in breach of Rule 1.14.

Breach of Rule 1.14

² On 30 September 2016, Ofcom published updated research in this area – *Attitudes to potentially offensive language and gestures on television and on radio* – which is available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0014/40541/offensive-language.pdf

In Breach

Videokolik

TGRT EU, 20 February 2017, 13:30

Introduction

TGRT EU is a licensed internet television service that broadcasts general entertainment programmes in Turkish and English. The licence for TGRT UK is held by IHA Media Limited ("the Licensee").

During routine monitoring, Ofcom assessed content broadcast on TRGT EU. Ofcom commissioned an independent English translation of the material broadcast in Turkish.

Videokolik is an entertainment programme featuring humorous and unusual home video clips and mobile phone footage. During this episode, mobile phone footage was shown of two men abandoning their car which had stopped on a level crossing moments before it was hit by a train. The voice of the person filming can be heard saying in English:

"These guys better get the fuck out of here".

Ofcom considered this raised issues under Rule 1.14 of the Code which states:

"The most offensive language must not be broadcast before the watershed...".

We asked the Licensee for its comments under this rule.

Response

The Licensee explained that most of its programming was broadcast in Turkish. However, in this case, the most offensive language was broadcast in English and because of the number of voices in the clip, its inclusion was overlooked.

The Licensee said that it understood the need to comply with all content regardless of the language. It said that it had advised its staff of the error and would take greater care in future.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast on television before the watershed. Ofcom's 2016 research on offensive language² clearly indicates that the word "fuck" and variations of it are considered by audiences to be amongst the most offensive language.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

In this case the word "fuck" was broadcast before the watershed. Our Decision is that this material was a clear breach of Rule 1.14.

Breach of Rule 1.14

In Breach

The Reporter

Tameside Radio, 4 May 2017, 19:00

Introduction

Tameside Radio is a community radio station licensed to provide a service via FM for the residents of Tameside, Greater Manchester. The Licence for Tameside Radio is held by Quest Media Network Limited ("Quest Media" or "the Licensee").

The Reporter is a weekly news programme that broadcasts on Thursday evenings between 19:00 and 20:00 and includes interviews on the past week's news.

The Licensee alerted Ofcom to an edition of the programme broadcast on polling day in the local and mayoral elections 2017, which included an interview with the UKIP candidate for Mayor of Greater Manchester.

We considered this raised issues under the following Code Rule:

Rule 6.4 "Discussion and analysis of election and referendum issues must finish when the poll opens...".

Ofcom requested the Licensee's comments on how the item complied with this rule.

Response

Quest Media said the broadcast of this material was a result of human error and apologised for the "lapse in quality & compliance checking". The Licensee explained that it took its compliance responsibilities seriously and had therefore reported the error to Ofcom as soon as it realised what had happened.

The Licensee explained that during the run up to the mayoral election *The Reporter* had featured interviews with each of the mayoral candidates for Greater Manchester. In this instance the incorrect edition of the programme had been imported into the play-out system, resulting in the previous week's show being broadcast in error. The mistake was picked-up and reported by a member of the technical staff, at which point the Executive Manager immediately "used a remote override system to force the studio off-air and on to a backup music system...".

Quest Media acknowledged the programme should not have been broadcast while polls were open, and said an apology had been aired as soon as control was handed back to the studio. The show was further removed from the on-demand system and an internal investigation had been undertaken which "instigated a number of process changes to prevent this happening again". These changes included:

- an earlier deadline for the show to be completed to allow for secondary checking;
- the inclusion of the date in the start of the show to act as a marker;

- a single import point for all shows with existing shows deleted once imported;
- the removal of the Reporter Show from the schedule on polling days; and
- additional training being scheduled with the entire news team and the importance of compliance with the Code being reinforced.

The Licensee added it “has a policy of leaving all political discussion to the news team to prevent presenters from accidentally breaching the code, and although not part of the cause of this incident, this policy has been reinforced along with further support and training on the responsibilities to the code to all staff and volunteers”.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Six of the Code requires that the special impartiality requirements are met, in particular during elections. Rule 6.4 requires that discussion and analysis of election issues must finish when the polls open. The purpose of this rule is to ensure that broadcast coverage on the day of an election does not directly influence voters' decisions.

This programme was broadcast three hours before polling stations closed for the Greater Manchester mayoral election, and included an interview with the UKIP mayoral candidate lasting approximately four and a half minutes.

We took into account that the Licensee brought this issue to Ofcom's attention, and we acknowledged Quest Media's submission that the incorrect version of the programme was broadcast in error. We also took into account the comprehensive measures taken by the Licensee to prevent similar incidents occurring in future. However, our Decision is that the broadcast of this material was a breach of Rule 6.4.

Breach of Rule 6.4

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

In Breach

Bollywood Bang Bang trail ***B4U Music, 16 March 2017, 17:25***

Introduction

B4U Music is a digital television channel that broadcasts a mixture of contemporary, Bollywood, Indipop, Bhangra, and international music. The licence for B4U Music is held by B4U Network (Europe) Ltd ("B4U" or "the Licensee").

Bollywood Bang Bang features songs from Bollywood stars. A complaint alerted Ofcom to a trail for *Bollywood Bang Bang*. The trail was approximately three seconds long and featured the name of the programme, the days and time of broadcast, and a voiceover stating "*Bollywood Bang Bang. At these times. Sponsored by...*". The trail was followed by various sponsorship credits. Each credit was approximately three seconds long and featured text and a voiceover as follows:

Southall Travel sponsorship credit

Voiceover: "*Southall Travel. The future of travel*".

Text: "*World wide flights & holidays. Southall Travel. The FUTURE of travel. [telephone number] [website address]*".

Cake Box sponsorship credit

Voiceover: "*Cake Box. Making celebrations a piece of cake*".

Text: "*Eggfree Cake Box. Making celebrations a piece of cake. [website address]*".

CoLaz sponsorship credit

Voiceover: "*CoLaz. Advanced beauty specialists*".

Text: "*CoLaz. Advanced Beauty Specialists. Feel Sexy, Smooth and Confident. FRANCHISE OPPORTUNITIES AVAILABLE. [website address] SOUTHALL | SLOUGH | HOUNSLOW | PADDINGTON | HARROW | DERBY*".

Shazia Khan sponsorship credit

Voiceover: "*And Shazia Khan. Make up artist and training academy*".

Text: "*Shazia Khan. Make up artisté and training academy. Contact [telephone number]. Follow us on Instagram @[username]. Email: [email address]. [website address]*".

Ofcom considered that this raised potential issues under the following rule:

Rule 9.24: "Where a sponsorship credit is included in a programme trail, the credit must remain brief and secondary".

In addition, we considered the sponsorship credits for CoLaz and Shazia Khan raised issues under the following rule:

Rule 9.22(a): "Sponsorship credits must be distinct from advertising. In particular:

Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor's products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement".

We therefore asked B4U for its comments on how the material complied with these rules.

Response

The Licensee did not consider there had been a breach of Rule 9.24 as it believed the credits were brief and secondary in nature.

B4U explained that the inclusion of the words "*FRANCHISE OPPORTUNITIES AVAILABLE*" in the sponsorship credit for CoLaz was an inadvertent mistake due to the production team using content from a commercial advertising spot, rather than creating a specific sponsorship credit. It advised that it had taken this sponsorship credit off air.

B4U explained that the Instagram handle in the sponsorship credit for Shazia Khan was included solely to identify the sponsor and as a reference to her products. As the relevant Instagram handle was used for make-up tutorials rather than to sell products, the Licensee believed that this would not encourage viewers to try or purchase products.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Nine of the Code limits the extent to which commercial references can feature within television programming. This ensures there is a distinction between advertising and programming, and prevents broadcasters transmitting more advertising than permitted.

Sponsorship credits are treated as part of sponsored programming and do not count towards the amount of airtime a broadcaster is permitted to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, the Code limits the prominence that can be given to a sponsor in a programme trail and prohibits the inclusion of advertising messages in credits.

Rule 9.24

Rule 9.24 of the Code requires that where a sponsorship credit is included in a programme trail, the credit must remain brief and secondary.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Ofcom's published guidance to Rule 9.24 states that "the purpose of a programme trail is to alert viewers to a forthcoming programme. References to a programme sponsor should not distract from this purpose and generally should be limited to a brief on-screen reference to the sponsorship arrangement"².

The Licensee believed the sponsorship credits complied with the requirements of the Code. However, we did not agree that these credits individually or taken together as a whole could reasonably be deemed brief and secondary in relation to the programme trail. The programme trail lasted for three seconds, which was approximately the same as each individual sponsorship credit. Therefore, the total duration of the credits was approximately four times longer than the trail.

Ofcom's decision is that the sponsorship credits were in breach of Rule 9.24 of the Code.

Rule 9.22(a)

Under this rule, broadcasters must ensure that sponsorship credits broadcast around sponsored programmes do not contain advertising messages or calls to action, and that credits do not encourage the purchase or rental of the products or services of the sponsor or a third party.

Ofcom considered that the text "*FRANCHISE OPPORTUNITIES AVAILABLE*" in the CoLaz sponsorship credit encouraged viewers to enquire about these opportunities and therefore constituted a clear advertising message.

We took into account that B4U believed that the text "*Follow us*" alongside the relevant Instagram handle in the Shazia Khan sponsorship credit did not amount to a breach of this rule as it was included as an identifier only. It argued that the Instagram account was used for make-up tutorials rather than to sell products. However, we considered that the purpose of the text "*Follow us*" was a clear call to viewers to actively seek out and follow Shazia Khan on Instagram.

Our decision is that these sponsorship credits were in breach of Rule 9.22(a) of the Code.

Breaches of Rules 9.22(a) and 9.24.

² <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

In Breach

Filmfare Awards

SAB TV, 18 February 2017, 20:00

Introduction

SAB TV is a Hindi language general entertainment channel that specialises in comedy and light entertainment programmes. The licence for SAB TV is held by MSM Asia Limited ("MSM" or "the Licensee").

The Filmfare Awards are an annual event celebrating artistic and technical excellence in Hindi language film. Ofcom received a complaint about references to the event sponsor, Jio, throughout SAB TV's coverage of the 2017 event.

As the programme contained a mixture of English and Hindi, Ofcom translated the Hindi content into English. The Licensee was given an opportunity to comment on the accuracy of the translation and did not dispute it. We relied on this translation for the purposes of this investigation.

The references included the following:

Presenter 1: *"...so the good news is we keep saying the world has progressed, and we are progressing, but we must recognise that the real reason for all that progress is because the world is being digitised by none other than Jio. And Jio ... [audience applause] ...yes, a big round of applause for Jio tonight. This is the first association of Jio with Filmfare and it's the same sort of association as Jay and Veero. Sachin and his bat. So it's a lifelong association. Thank you very much Jio".*

Presenter 2: *"Jio – Live to your heart's content".*

Presenter 1: *"Before we move on, we would like to thank our sponsors for this esteemed show, the title sponsors Jio. Jio is a world class, data strong network with latest 4G technology. Jio has made India the highest quality, most affordable data and voice market in the world...".*

Presenter 2: *"... because of the withdrawal of currency recently...many felt tension, but now they have no problem, because now they have Jio money. So Jio has made everything so easy, that you can go on a date with your girlfriend, without any money in your pocket, but in addition to this, not only can you receive bills, pay bills, but you can even travel with Jio, you can use Jio money not only in malls, but at every street corner. So let's have a large round of applause for Jio".*

Presenter 2: *"Before we move on we would like to thank our title sponsors Jio, India's best network which wants to provide the fastest data speed".*

Presenter 3: *"Do you have a problem taking a selfie?"*

Audience Member: *"Yes, I have been trying to upload mine for the longest time and it just won't happen".*

Presenter 3: *"Obviously the reason is that you don't have JioFi, and if you had JioFi you would be connected to any device. In fact, if you want to connect anywhere to anywhere, make sure you are on JioFi...for best connectivity and easy upload, JioFi".*

Ofcom requested information from the Licensee about any commercial arrangements associated with the references to Jio in the programme. Based on the information provided we considered that the programme raised potential issues under the following rules:

Rule 9.4: Products, services and trade marks must not be promoted in programming.

Rule 9.5: No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:

- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
- the manner in which a product, service or trade mark appears or is referred to in programming.

We therefore asked MSM for its comments on how the material complied with these rules.

Response

MSM explained that it was a subsidiary of Sony Pictures Networks India Private Ltd (SPNI), who had secured the rights to broadcast the event.

The Licensee explained that while references to 'Reliance Jio', the full name of the brand, were edited out of the programme before it was broadcast in the UK, some references to 'Jio', which means 'to live' in Hindi were inadvertently left in. MSM took responsibility for this error and told Ofcom that it had taken robust measures to ensure that this mistake would not recur and the programme would be edited before being broadcast again. MSM advised that the Jio products are only available to customers in India and to its knowledge there is no intention to launch this product in the UK. It also stated that it had not received any payments for the broadcast.

MSM added that SPNI intended to review the arrangements between the event owner and the event sponsor and if "adequate editorial control (to SPNI's satisfaction) is not provided

by the [e]vent owner/organizer, SPNI will evaluate continuing as the broadcast partner of the [e]vent”.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Nine of the Code limits the extent to which commercial references can feature within television programming. Section Nine does not proscribe all references to products and services in programmes. However, it requires all such references to be justified by the editorial requirements of a programme and to not be promotional or unduly prominent.

Rule 9.4 states that products, services and trade marks must not be promoted in programming. Ofcom's published guidance² on Rule 9.4 states: “Where a reference to a product or service features in a programme for purely editorial reasons, the extent to which a reference will be considered promotional will be judged by the context in which it appears. In general, products or services should not be referred to using favourable or superlative language and prices and availability should not be discussed”.

Rule 9.5 states that no undue prominence may be given in programming to a product, service or trade mark, noting that undue prominence may result from a reference to a product, service or trade mark where there is no editorial justification, or from the manner in which a product, service or trade mark is referred to. Ofcom's published guidance on Rule 9.5 states: “Whether a product, service or trade mark appears in a programme for solely editorial reasons...or as a result of a commercial arrangement between the broadcaster or producer and a third party funder...there must be editorial justification for its inclusion. The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears”.

We recognise that in broadcast coverage of an event, such as an awards ceremony, there may be references to the event sponsor. However, when covering such events, broadcasters must take care to ensure that any reference to the sponsor and the products or services it offers is limited to what can be justified by the editorial needs of the programme and is not promotional.

In this case, the programme included detailed information on the range and quality of services provided by the sponsor (e.g. *“Jio has made everything so easy, that you can go on a date with your girlfriend, without any money in your pocket, but in addition to this, not only can you receive bills, pay bills, but you can even travel with Jio, you can use Jio money not only in malls, but at every street corner”* and favourable and superlative language (e.g. *“Jio has made India the highest quality, most affordable data and voice market in the world”*). In our view the content was clearly promotional in tone.

Further, the content described above focused entirely on the products and services offered by a specific business, Jio. There may be editorial justification for some reference to an event sponsor in the coverage of this type of event. However in this case, we considered that the emphasis and repeated focus on one company and its services were not editorially justified and were therefore unduly prominent.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf

Ofcom's decision is that the programme was in breach of Rules 9.4 and 9.5 of the Code.

Breaches of Rules 9.4 and 9.5

In Breach

News item

PTV Global, 26 February 2017, 15:00

Introduction

PTV Global is a news and general entertainment service broadcasting in Urdu from Pakistan. The channel is available in the UK on a digital satellite platform. The licence for PTV Global is held by Pakistan Television Corporation Limited ("PTCL" or "the Licensee").

During routine monitoring Ofcom identified a news report on the current unrest in the Indian state of Kashmir. The item included several critical remarks about the treatment of Kashmiris by the Indian military in the state of Kashmir.

Ofcom commissioned an independent translation of the programme and gave the Licensee an opportunity to comment on its accuracy. In the absence of a reply we relied on the translation for the purposes of the investigation.

The programme opened with the two studio presenters introducing the news item. Images of protesters confronting police and politicians talking to reporters could be seen on a split screen:

Presenter 1:

"In occupied Kashmir, the chairman of the All Parties Hurriyat [freedom] committee Syed Ali Gilani has commented on the statement made by Indian Commander in Chief General Rawat. He said that that this statement is evidence of India's stubbornness, arrogance and addiction to wielding its military might".

Presenter 2:

"According to Kashmir Media Service, Syed Ali Gilani issued a statement from Srinagar stating that this statement proves that India is an autocratic state, and that it is following a policy of denying the democratic and birth rights of people through military might. He said that the voice of Kashmiris cannot be suppressed through such unjustifiable action. He said that the Indian military chief should learn a lesson from his predecessors who have all publicly accepted that the Kashmir issue is a political matter and cannot be solved through military might. He said that the single matter preventing a solution to the Kashmir issue was the stubbornness and autocratic nature of the Indian authorities, who have made this an issue of false pride, and are playing with the lives of millions of people and preventing them live lives of peace, tranquillity and progress. He stressed that the Indian government and General Rawat should forget their autocratic and colonial mindset and reflect upon the ground realities. He said that the will of the people of Kashmir must be respected, and no amount of military force will silence them".

Presenter 2:

“Commenting on the irresponsible statements made by the Indian military chief, former Indian Home Minister and Minister of Finance P. Chidamabaram stated India has virtually lost Kashmir and the graph measuring the rise of oppression has broken all records”.

Presenter 1, referring to the former government minister:

“He condemned the use of force on the people of Kashmir and described this policy a dangerous mistake. English daily ‘The Hindu’ newspaper published from Delhi further stated that India’s former federal Interior Minister had also admitted that in order to suppress expression of opinion, force was being applied”.

Presenter 1:

“In India, the Home ministry has proposed a series of oppressive measures to suppress the voice of Kashmiris in Indian occupied Kashmir”.

Presenter 2:

“The ministry amongst other measures announced that several steps had been taken to control print, mosques and electronic media to strengthen intelligence gathering and announced steps to be taken against freedom activists using income tax department and other government agencies”.

We considered that the content raised issues under the following rules of the Code:

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

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

The Licensee did not respond to Ofcom’s request for its comments.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Five of the Code requires that news included in television and radio services is presented with due impartiality and the special impartiality requirements are met.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

Under Rule 5.1, news must be reported with due accuracy and presented with due impartiality.

The Code makes clear that the term "due" means adequate or appropriate to the subject matter. "Due impartiality" does not mean an equal division of time has to be given to every view, or that every argument has to be represented. It can be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures this. Depending on the specific circumstances, it may be necessary to reflect alternative viewpoints in an appropriate way. The context in which programme material appears, including the particular characteristics of the programme, helps inform judgements of what is duly impartial.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek to balance broadcasters' freedom to discuss any controversial subject or point of view in their programming, and compliance with Section Five.

Ofcom recognised that the unrest in the Indian state of Kashmir is the subject of considerable controversy, both within India and Pakistan and that PTCL would have legitimate grounds to report on Kashmir and the relations between Kashmiris and the Indian authorities.

However, the Code guidance makes clear that broadcasters should take care before making any unequivocal interpretations or statements about contentious issues, which may be dependent on nuance and open to different interpretations. The guidance also highlights that when news items include criticism of people or organisations, then broadcasters should consider whether they need to reflect the viewpoints of those being criticised and/or reflect their refusal to comment.

The news item included several comments that were critical of the Indian state and its policies towards Kashmir. Statements made by the Indian Commander in Chief referring to Indian policy in Kashmir were described by the chairman of Kashmir's All Parties Hurriyat [freedom] committee Syed Ali Gilani as evidence of "*stubbornness, arrogance and addiction to wielding its [India's] military might*" and "*the Indian military Chief should learn a lesson from his predecessors... that the Kashmir issue is a political matter and cannot be solved through military might...the single matter preventing a solution to the Kashmir issue was the stubbornness and autocratic nature of the Indian authorities, who have made this an issue of false pride, and are playing with the lives of millions of people and preventing them live lives of peace, tranquillity and progress*".

In addition, the news presenter said that the Indian state had adopted a series of "*oppressive measures to suppress the voice of Kashmiris in Indian occupied Kashmir*" by taking "*several steps...to control print, mosques and electronic media to strengthen intelligence gathering... against freedom activists using income tax department and other government agencies*".

Ofcom understands that PTV Global reports news from a Pakistani perspective to Pakistani viewers in the UK and Europe and takes a robust approach to reporting India's policies towards Kashmir. However, in doing so, it was incumbent upon the Licensee to ensure that it provided alternative viewpoints either within the news programme itself or in subsequent programmes.

However, the news coverage in question did not contain any alternative views, which could be reasonably judged as reflecting that of the Indian Government or of those holding an alternative viewpoint. In addition, there was no indication in the news programme that any alternative viewpoint would be reflected in subsequent programmes.

For those reasons Ofcom did not consider PTCL had preserved due impartiality in this news coverage. Ofcom's Decision is that the item breached Rule 5.1 of the Code.

Breach of Rule 5.1

Resolved

The Wright Stuff

Channel 5, 2 May 2017, 09:15

Introduction

The Wright Stuff is a weekday morning topical magazine programme broadcast live on Channel 5. The programme is presented by Matthew Wright and includes a panel of guests discussing various news items.

Ofcom received a complaint that one of the panellists, Amanda Lamb, used the word "fucking".

This occurred at 09:51 during a discussion about "sloganeering" politicians. Ms Lamb compared the use of slogans by politicians to her tactics for getting her children to do what she asks. She said:

"It's the same with my kids, when I'm constantly saying to them... 'Put your coat on, put your coat on, put your coat on', and if I keep saying it eventually they put their fucking¹ coats on".

Approximately 60 seconds later, Matthew Wright said:

Matthew Wright: *"OK, I've got to jump in, I think we had a naughty word slip out of Amanda's—"*

Amanda Lamb: *"No, I didn't, I promise you, I didn't say it, it wasn't — it was freak".*

Matthew Wright: *"If there was, I'd like to apologise".*

Amanda Lamb: *"It wasn't, I absolutely promise I didn't say a rude word".*

Matthew Wright: *"And if there wasn't, I'd like to apologise to you. Screechy's checking the tape and says you did...apologies if any offence, accidental or otherwise was received".*

At the beginning of the next programme part, Mr Wright and Ms Lamb both gave further apologies.

We considered this language raised potential issues under Rule 1.14 of the Code, which states:

"The most offensive language must not be broadcast before the watershed..."

Ofcom requested comments from Channel 5 on how the programme complied with this rule.

¹ In its representations to Ofcom, Channel 5 said Ms Lamb believed that she had used the word "freaking" and not "fucking". In Channel 5's view "it was not entirely clear which word she had used".

Response

Channel 5 said "*The Wright Stuff* has a protocol in place that all panellists are taken through before the start of the programme". As part of this briefing, guests are told not to use any offensive language.

Channel 5 said "Matthew and the team reacted quickly and responsibly" and as soon as he "was made aware of the potentially offensive language, he apologised to viewers for any offence caused, as did Amanda Lamb".

Channel 5 told Ofcom that an independent solicitor, who is employed by Channel 5 and views the show on a daily basis, ensured that a further apology was broadcast and the channel was alerted to the issue. Channel 5 also said "steps were immediately taken to ensure that the programme was edited to remove the language before it transmitted...on Channel 5+1".

Decision

Reflecting our duties under the Communications Act 2003², Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast before the watershed.

Ofcom's 2016 research on offensive language³ clearly indicates that the word "fuck", and variations of it, are considered by audiences to be amongst the most offensive language.

We agreed with the Licensee that it was not entirely clear whether Ms Lamb had said "freaking" or "fucking". However, we considered it likely that at least some viewers would have been of the view that the most offensive language had been used.

We took account of the various actions taken by the Licensee which included both Mr Wright and Ms Lamb apologising on a number of occasions during the programme and the language being removed from the programme's repeat on Channel 5+1. We therefore considered this matter resolved.

Resolved

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

³ On 30 September 2016, Ofcom published updated research in this area – *Attitudes to potentially offensive language and gestures on television and on radio* – which is available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

Resolved

Trail for Top 10 Ariana Grande Tunes MTV, 23 May 2017, 09:40 and 10:13

Introduction

Ofcom received a complaint about a short trail at the above times:

"She smashed Manchester last night! For those of you feelin' a bit jelly coz you missed it, our gal ARIANA GRANDE and her TOP 10 TUNES are here from 11".

The complainant said that this was highly insensitive following the terrorist attack on the concert it referred to in Manchester the previous night.

We considered this raised potential issues under Rule 2.3 of the Code which states:

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context..."

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

The Licensee apologised "unreservedly" for the broadcasts which it accepted breached Rule 2.3.

The Licensee said that it removed all Ariana Grande music videos from its schedule and changed its on air look to black and white with the phrase *"We Stand Together"*. However, it said that "huge schedule changes across our networks" carried out at short notice had resulted in these trails being aired mistakenly. Despite its best intentions they had "slipped through the net". It described how the mistake occurred and what it did to rectify the problem:

- It searched for and removed insensitive content from its broadcast line up immediately.
- The trail was re-recorded with a generic "up next" announcement.
- The new trail was given the same filename as the original; ordinarily its systems would update to broadcast the most recent version.
- However, the system did not recognise the file had been refreshed and aired the original recording.
- Following contact from three viewers, it realised that the system had not worked as expected and immediately "broke" the schedule and removed the trail.
- It apologised to the viewers directly, and apologised on social media to its other viewers.

The Licensee said these were the only two items that were not replaced before broadcast. It added that the system failure only affected trails as the system requires edited programmes to be renamed. If faced with a similar event in future, it said it would remove all trail files and replace them with renamed files to ensure the system recognised the change.

The Licensee said the mistake was “undoubtedly insensitive” and that it resulted purely from a misunderstanding of how the system worked. It said that it happened in a stressful situation, when attempts were being made to react quickly and considerately to events and to the feelings of viewers. It “meant absolutely no offence” and apologised again.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Under Rule 2.3, broadcasters must ensure that potentially offensive material is justified by context. Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

The trail was light-hearted in tone and at the time of recording, before the terrorist attack, would have fitted in with the general content on MTV. However, at the time of broadcast, in the aftermath of the terrorist attack, referring to what had become a tragic event, in a light-hearted way, had clear potential to cause offence.

However, Ofcom took the following into account: the broadcasts were unintentional; the efforts the Licensee made not to broadcast the trail; the context and way in which it happened; the many other changes the Licensee made to the content it broadcast that day; and the apologies it made directly to complainants and via social media. Furthermore, when we contacted the Licensee, it was already investigating what had happened and has told us that it now has a plan in place to avoid a similar mistake again.

For all these reasons, Ofcom considered the matter resolved.

Resolved

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Advertising scheduling cases

In Breach

Advertising minutage

Takbeer TV, 8 February 2017, 18:00

Introduction

Takbeer TV broadcasts religious and general entertainment content mainly in Urdu from an Islamic perspective to audiences in the UK and across Europe. The licence is held by Takbeer TV Limited ("Takbeer" or "The Licensee").

During routine monitoring, Ofcom identified that between 18:00 and 19:00 Takbeer broadcast approximately 18 minutes and 39 seconds of advertising.

We considered this raised issues under Rule 2 of COSTA, which states:

"Time devoted to television advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes".

We sought the Licensee's comments on how the content complied with this rule.

Response

Takbeer responded by saying it was extremely mindful and diligent about compliance, was aware of sensitive topics and careful of any risks leading to any breach of the regulatory codes. It said it was aware of the issue before it received notification from Ofcom.

It also outlined that it aimed to serve viewers from the Pakistani and Urdu speaking communities. For that reason, it included some content from another provider in Pakistan.

In this case, the Licensee said there been an error in handling the incoming material that meant the programme and advertising content had not been correctly prepared for broadcast. It said that this was partly due to a training issue with a new operator and partly due to weather related technical problems with receiving the material.

Takbeer said it would usually have replaced the advertisements from its content provider in Pakistan with locally made advertising segments and ensured that the hourly total of advertising remained below the 12 minute COSTA limit.

The Licensee sincerely apologised for this "one off unintentional breach" and committed to keep its system in full working order to avoid future problems. It said it had provided further training for staff and reminded them of Ofcom's COSTA Guidance to avoid any breach in future.

Decision

Reflecting our duties under the Communications Act 2003¹, Rule 2 of COSTA specifies that “time devoted to television advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes²”.

The Licensee acknowledged that the advertising exceeded that limit on this occasion. Our Decision is that the broadcast was in breach of Rule 2 of COSTA.

Breach of Rule 2 of COSTA

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

² https://www.ofcom.org.uk/_data/assets/pdf_file/0014/32162/costa-april-2016.pdf

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with 'Key Commitments' *Cross Rhythms Teesside, 26 to 28 March 2017*

Introduction

Cross Rhythms Teesside is a community radio station licensed to provide a service for the Christian community in the Tees Valley area, and particularly the 16-35 age group. The licence is held by Tees Valley Christian Media ("TVCM" or "the Licensee").

Like other community radio stations, TVCM is required to deliver the 'Key Commitments' which form part of its licence¹. These set out how the station will serve its target community and include a description of the programme service.

Ofcom received a complaint that TVCM was not delivering some of the programming requirements set out in the station's Key Commitments. We therefore requested recordings of three days of Cross Rhythms Teesside's output, covering Sunday 26, Monday 27, and Tuesday 28 March 2017.

After listening to the output, we identified that TVCM was not delivering the following Key Commitments:

- Description of character of service: "programming...includes...local news and information".
- Speech: "The main types of speech output broadcast over the course of each week are: interviews, presenter-led features... local travel and weather".
- Original Output: "The service provides original output for a minimum of five hours per day on weekdays and at least two hours per day at weekends".
- Locally-produced output: "The service provides locally-produced output for a minimum of five hours per day on weekdays and at least two hours per day at weekends".

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to TVCM's licence. These state, respectively:

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

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

¹ The Key Commitments are contained in an annex to TVCM's licence. They can be viewed in full at: <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000098.pdf>

We requested comments from TVCM on how it was complying with these conditions, with reference to the specific Key Commitments set out above.

Response

TVCM accepted that it was not delivering the Key Commitments set out, and explained that it was due to the unexpected resignation of a volunteer in February who had been instrumental to the station.

The Licensee stated that it had made some headway in "...addressing the issues of local, original programming" by hiring a new presenter and re-engaging with a previous volunteer. Additionally, the Licensee initially set out a plan on how it would be meeting its Key Commitments by the end of July 2017 and commented that its team is committed to building up its programming and "establishing strong local representation". This has now been revised due to on-going issues with recruitment but TVCM have told us they expect that from August onwards, the programming level will increase and aims to form "...a robust, restructured team that can properly develop and sustain the station to meet its Key Commitments going forwards...".

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the specified licensed service. This is the fundamental purpose for which a community radio licence is granted.

It was clear that, in this case, TVCM had failed to deliver several essential components of its Key Commitments. While we appreciated the circumstances in which this occurred, we were concerned that the Licensee did not take any steps at the time to inform Ofcom of the difficulties it was experiencing.

The Licensee had been found in breach of Condition 2(4) on 29 June 2015² and in breach of Conditions 2(1) and 2(4) on 9 May 2016 for failing to comply with its Key Commitments in relation to the provision of original locally-produced programming³. On both occasions the Licensee assured Ofcom that it had plans in place to increase the amount of original locally-produced programming hours to meet its Key Commitments.

Ofcom is concerned that the Licensee appears to still be unable to meet its Key Commitments to broadcast original locally-produced programming. Given that this would be the third breach of Licence Condition 2(4), we are therefore putting the Licensee on notice that we are considering this breach for the imposition of a statutory sanction.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Tees Valley Christian Media (licence number CR000098).

² Issue 282 of Ofcom's Broadcast and On Demand Bulletin can be viewed at:
https://www.ofcom.org.uk/_data/assets/pdf_file/0021/50349/issue_282.pdf

³ Issue 304 of Ofcom's Broadcast and On Demand Bulletin can be viewed at:
https://www.ofcom.org.uk/_data/assets/pdf_file/0035/49796/issue_304.pdf

In Breach

Providing a service in accordance with 'Key Commitments' *SFM, 5 April to 24 April 2017*

Introduction

SFM is a community radio station licensed to provide a service for the residents of Sittingbourne, Kent, and the surrounding area. It offers members of the target community opportunities to voice their concerns and opinions on issues affecting their daily lives. The licence is held by Sittingbourne Community Radio Limited ("SCR" or "the Licensee").

Like other community radio stations, SCR is required to deliver 'Key Commitments', which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service.

Ofcom received a complaint that no live programming was broadcast on SFM between 5 and 24 April 2017. The Licensee confirmed that no live programming was broadcast during this period.

Ofcom was therefore concerned about how SCR had met the following Key Commitments during the period in question:

- Character of service – "It provides a service with a local emphasis and offers members of the target community opportunities to voice their concerns and opinions on issues affecting their daily lives".
- "Speech. The main types of speech output broadcast over the course of each week include: local news, community information, sport, arts, discussion and local issues".
- "The service provides original output for a minimum of 12 hours per day²".

Ofcom further considered this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to the licence. These state, respectively:

- "The Licensee shall provide the Licensed Service specified in the Annex for the licence period". (Section 106(2) of the Broadcasting Act 1990); and
- "The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period". (Section 106(1) of the Broadcasting Act 1990).

We requested comments from the Licensee on how it was complying with these licence conditions.

¹ <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000219.pdf>

² Original output is defined by Ofcom as output that is first produced for and transmitted by the service, and excludes output that was transmitted elsewhere before. Original output can be live, pre-recorded or 'voice-tracked'. Repeat broadcasts of original output do not count towards the minimum requirement, and neither does continuous music.

Response

SCR confirmed that no live programming was broadcast during the period of 5 to 24 April 2017. It explained that this was due to illness of a key member of staff and "...a breakdown in communication and co-ordination of volunteers and contributors...". The Licensee stated that a full service had re-commenced on 24 April 2017.

SCR explained that moving forward, it would be using more voice-tracked programming to meet its daily 12-hour original output commitment, and that it was holding several meetings with its volunteers to adopt new procedures to avoid this situation occurring again.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the specified licensed service set out in their Key Commitments.

SCR admitted that it had not met its Key Commitments relating to the character of service, speech output and the minimum amount of original output. While Ofcom acknowledged that SCR is now meeting its Key Commitments, it had failed to do so from 5 to 24 April 2017.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Sittingbourne Community Radio Limited (licence number CR000219).

In Breach

Provision of information *Channel i, 2 December 2016*

Introduction

Channel i is a news and general entertainment channel aimed at the Bangladeshi community in the UK and Europe. The licence for Channel i is held by Prime Bangla Limited ("Prime Bangla" or "the Licensee").

Ofcom requested information from the Licensee to determine whether commercial references in a news report broadcast on 2 December 2016 were subject to a commercial arrangement. On two occasions the Licensee failed to provide the information requested within the deadlines set by Ofcom.

Ofcom considered the Licensee's failure to provide information within the specified time raised issues under Condition 12(1) of Prime Bangla's licence, which states that the Licensee:

"...shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act".

Ofcom asked Prime Bangla for its comments under Licence Condition 12(1).

Response

The Licensee apologised for not responding to Ofcom sooner and explained that human error led to its failure to respond to the initial two requests for information. When responding, Prime Bangla also partially addressed Ofcom's questions regarding the commercial references in the news report. Ofcom subsequently asked the Licensee to fully address the original questions about commercial arrangements associated with the commercial references. However, the Licensee again failed to respond within the deadline specified.

Decision

Broadcasting licensees are required to comply with any request by Ofcom to provide information where necessary to enable Ofcom to exercise its functions. For Television Licensable Content Service (TLCS) licences, this is reflected in Licence Condition 12(1). Guidance notes for TLCS licensees also state, "The licensee must supply to Ofcom by the deadline provided, any information that we may require for carrying out our duties".

In this case, the Licensee did not provide the information requested within the deadlines set by Ofcom on three occasions. Ofcom's decision is therefore that there was a breach of Licence Condition 12(1).

Breach of TLCS Licence Condition 12(1)

In Breach

Broadcasting licensees' late payment of licence fees *Various licensees*

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 Principles¹. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables².

The payment of a licence fee is a requirement of a broadcasting licence³. 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 radio 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
Warwickshire County Cricket Club Limited	ADSRSL000006BA	Bear Live
Cheesy FM Limited	DP101531BA	Cheesy FM
Demon FM Limited	CR000179BA	Demon FM
Radio Winchcombe Limited	CR000233BA	Radio Winchcombe
Westfield Arts College	CR000243BA	AIR

Breaches of Licence Condition 3(2) in Part 2 of the Schedule of the relevant licences.

¹ http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

² https://www.ofcom.org.uk/_data/assets/pdf_file/0029/99614/Tariff-Tables-2017-18-.pdf

³ As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

In Breach/Resolved

Provision of information: community radio finance reports *Various community radio licensees, year ending 31 December 2016*

Introduction

Community radio stations are provided primarily for the good of members of the public or for a particular community, rather than primarily for commercial reasons. They must also deliver social gain, operate on a non-for-profit basis, involve members of their target communities and be accountable to the communities they serve.

There are statutory restrictions on the funding of community radio stations which are set out in community radio licences. Specifically, that stations are permitted to raise up to £15,000 from on-air advertising and sponsorship income, the 'fixed revenue allowance' (FRA). Most community radio stations may raise a further amount from on-air advertising and income, in addition to the FRA, but it must not exceed 50% of the station's total relevant income (disregarding the FRA) for that year, and with at least 25% coming from 'other income' sources.

It is of fundamental importance that Ofcom can verify that a licensee is complying with its licence requirements relating to funding. We therefore require licensees to submit an annual report setting out how they have met their licence obligations.

The annual reports from stations also inform Ofcom's own report on the community radio sector, which is featured in the annual Communications Market Report, and late and non-submissions from individual stations impact on this.

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

Ofcom requested finance reports for the calendar year 2016 from all the community radio licensees which were broadcasting throughout 2016. A number of stations failed to provide their reports by the deadline specified.

Ofcom considered that this raised issues under Condition 9(1) in Part 2 of the Schedule to the Broadcasting Act licence, which states:

"9(1) The Licensee shall maintain records of and 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 [...]

- c) such information as Ofcom may reasonably require for the purposes of determining whether the Licensee is complying with the requirements of the Community Radio Order 2004 for each year of the Licensed Service;

- d) such information as Ofcom may reasonably require for the purposes of determining the extent to which the Licensee is providing the Licensed Service to meet the objectives and commitments specified in the Community Radio Order 2004; and
- e) the provision of information under this section may be provided to Ofcom in the form of an annual report which is to be made accessible to the general public".

Decision

For the following licensees, Ofcom did not receive a report. These licensees have therefore breached their broadcast licence.

Licence number	Station name	Licensee
CR000208	Awaaz Radio	Awaaz Radio Limited
CR000168	Gravity FM	Gravity FM CIC

Breaches of Licence Condition 9(1) in Part 2 of the Schedule to the community radio licences.

Ofcom did not receive the annual finance reports from the following licensees by the deadline given. These licensees did submit late reports and we therefore considered the cases to be resolved.

Licence number	Station name	Licensee
CR000179	Demon FM	Demon FM Limited
CR000120	Hot Radio 102.8	Poole Community Radio Ltd

Resolved

Fairness and Privacy cases

Not Upheld

Complaint by The RAC Group Limited *Watchdog, BBC1, 16 and 30 November 2016*

Summary

Ofcom has not upheld this complaint by the RAC Group Limited (“the RAC”) of unjust or unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programmes, and in the programmes as broadcast.

These consumer affairs programmes featured a report about the replacement of car batteries at the roadside by the RAC. It complained that the programme unfairly claimed it had replaced car batteries unnecessarily and that it had not been given an appropriate and timely opportunity to respond to the serious allegations made about it. Further, the RAC claimed that its privacy was infringed by the obtaining and broadcast of surreptitiously filmed footage of its employees.

Ofcom considered that:

- The programme broadcast on 30 November 2016 did not present, omit or disregard material facts in a way that was unfair to the RAC.
- The broadcaster provided the RAC with an appropriate and timely opportunity to respond to the allegations of potential wrongdoing being made about it in the programme as broadcast on 30 November 2016.
- The RAC did not have a legitimate expectation of privacy either in relation to the obtaining of the footage of its employees which was filmed surreptitiously, or in its broadcast in the programmes. Therefore, it was unnecessary for Ofcom to consider whether any potential infringement of the RAC’s privacy was warranted.

Programme summary

On 16 and 30 November 2016, the BBC broadcast editions of its consumer investigation series, *Watchdog*.

16 November 2016

At the end of the programme, the presenter trailed the next edition of the series:

“Now, Watchdog is for you. So keep sending us all your stories and tip offs. Next week on Watchdog: the RAC. Could it be selling you new car batteries, even when the one you have already works perfectly well?”

Images of an RAC vehicle and patrol employees (“RAC patrols”), with their faces obscured, were shown and the company’s logo was clearly visible. No further references were made to the RAC (the complainant) in this edition of the programme.

30 November 2016

The programme's presenter, Sophie Raworth, explained that this programme would feature:

"...serious questions for the RAC after our investigation into customers being sold new car batteries at the roadside".

The programme then featured a series of clips of footage which had been filmed undercover and showed RAC patrols telling customers that their car batteries would need to be replaced. The faces of the RAC patrols were obscured, however their voices were not disguised. The second presenter, Matt Allwright, then said that the RAC patrols:

"...told us we needed to replace 8 out of 10 of our batteries, but our experts say the tests show the batteries were good and didn't need changing".

Following the programme's title sequence, a third presenter, Michelle Ackerley, explained that:

"Over the past few months, we've been conducting roadside tests up and down the country, the results have led to some serious questions for the RAC, a company that has over 8 million members".

Clips from RAC television advertisements were shown, as the presenter said:

"For more than 100 years the RAC has been one of the most respected names in roadside assistance...but we've received reports from some concerned customers. And it all comes down to this – your car's battery".

The presenter was shown in a car scrap yard, she explained:

"We've heard of some car owners being told they needed to get their battery replaced, when it appears it was perfectly good".

The presenter introduced "John" and "Sheila" and explained that Sheila had called the RAC earlier that year when their car failed to start. John said that the RAC patrol told him the battery was "no good whatsoever". John said he had questioned this as the battery "wasn't very old" and was told by the RAC patrol that:

"A cell's gone...there's no way the car will start with your battery on".

The presenter said that John was "suspicious" and subsequently had the old battery re-tested at the shop he had bought it from and they said it was "absolutely fine". John explained that the people who had retested the battery could:

"...see no reason why they [the RAC patrol] couldn't get the car started...in a few minutes the battery would have charged up and everything would be back to normal again".

The presenter said that the RAC had "refused to refund him until we got in touch" and he had subsequently received "£110 for the battery and an extra £115". She added that RAC staff

had told John that the RAC patrols were *"using new equipment and the patrolman could be at fault"*.

The presenter introduced "Kate" who had called the RAC when her car had failed to start. Kate said that the RAC patrol had initially tested her battery and said it was *"fine to be charged...and I would be on my way shortly"*. However, Kate said that when the RAC patrol discovered that *"I didn't know much about the car history"* he said that he needed to test the battery again and that *"both times he'd retested the battery it had failed"*.

The presenter explained that Kate was an *"unsure, new driver"* and was convinced into buying a new battery for £90 even though:

"...the report the RAC sent to her afterwards showed her battery was in 100% state of health".

A copy of the RAC report was shown with the words *"State of health: 100%"* visible.

The presenter said that the programme had *"heard from a number of other RAC members with similar experiences"*. She said that "Richard":

"...got in touch after being told he needed a new battery which he bought from the RAC. However, the email reports he received afterwards showed the RAC's own tests stated the battery was in a good state of health".

A copy of the report was shown with following words highlighted:

*"Reserve Capacity: Good Reserve
State of health: 60%
Test result: Serviceable Recharge"*.

The presenter explained that another RAC member, "Stephen":

"...had the same experience when he bought a new battery from the RAC. He later discovered that his receipt listed his battery as being in a good state of health".

A copy of the relevant report was shown with the following text highlighted:

*"Reserve Capacity: Good Reserve
State of health: 60%
Test result: Serviceable Recharge"*.

The presenter explained that the programme had *"decided to test this out for ourselves"* by taking ten vehicles to ten different locations and:

"...enlisted two forensic vehicle examiners who conducted the industry standard tests battery manufacturers recommend to test the health of our batteries. They told us all ten batteries were good and did not need replacing".

One of the vehicle examiners, "Mark", was shown testing a battery in one of the cars. The words *"Good battery"* were shown on his testing equipment. Mark explained:

"There's absolutely nothing wrong with the battery, whatsoever. There should be no reason why the battery should need replacing".

The presenter then explained that the batteries on each of the ten cars had been run down until the engines would not start. Secretly filmed footage of a number of RAC patrols attending the vehicles was then shown and the presenter said:

"Time to call the RAC. According to our experts our batteries are good. All they need is to be jump started and given a good run to charge them back up".

Footage of a number of RAC patrols examining the broken down vehicles was then shown. In all of the secretly filmed footage the individual RAC employee's faces were obscured, however, their voices were not disguised. The presenter explained that two of the patrols *"tested our batteries, charged them back up and sent us on our way"*. Secretly filmed footage of these encounters was shown. The RAC patrols were shown reassuring the customers that the batteries were in good health and advising them to run the engine.

Further footage was shown of another RAC patrol examining the car who advised:

"It needs a new battery on it. Do you want me to get you a price on one?"

Another RAC patrol was shown examining the testing equipment, he said:

"It's just the battery, that's the problem. New battery time".

A montage of the footage from all ten incidents of secret filming was shown and two were highlighted with a green tick as the presenter explained:

"On 8 out of 10 call outs, RAC patrols told us the batteries our experts said were good, needed replacing".

Another RAC patrol was shown explaining:

"It is purely saying that the battery's had it".

A further RAC patrol was shown examining another vehicle and said:

"It is the battery that's at fault. It does say it needs a new battery".

Another RAC patrol was shown with a customer in conversation:

RAC Patrol: *"New battery needed.*

Customer: *So, everything else is ok, it's just?"*

RAC Patrol: *Everything else is okay, yeah".*

The presenter explained that in each case, the RAC patrol had advised a battery needed to be replaced. However, she said that the programme's *"experts"* had retested the batteries and that *"they were all still good"*. One expert, Mark, was shown re-examining one of the batteries. He said:

"The test results have come back that we've got a good battery. So, there is plenty of life left in this battery and there is no reason why it should have been taken out of the car".

Footage from the secret filming was again shown of the RAC patrols as they explained to their customers that a new battery, which came with a five-year guarantee, would cost between £110.99 and £122.

The presenter said that *"although nearly all the patrols said that we could drive on and get our battery replaced elsewhere, they warned it came with risks"*. Secretly filmed footage was then shown of an RAC patrol explaining to a customer:

"I can't guarantee you that it is going to be fine".

Another RAC patrol said:

"We could jump start it and you could use it today. Go shopping...come back out and it not start again".

The presenter explained that other RAC patrols had warned of *"the costly consequences of another call out"*. Secretly filmed footage showed the following exchange:

Customer: *"So, if you did jump start me and I got home and then what would happen tomorrow morning if it had been left?"*

RAC Patrol: *"It probably wouldn't start again and if you call us out they will charge you £85 for coming back out to you".*

The presenter explained that half of the RAC patrols had told customers that if the batteries failed again, and the RAC patrol was called out there would be a charge. Secretly filmed footage showed another RAC patrol, who said:

"The battery on one of these is £89.99. The call out charge is £85".

Footage from the interview with Kate from earlier in the programme was again shown, along with the RAC report text highlighted. The presenter said: *"Customers are being told to replace batteries when the RAC's own tests say that they are good"*.

Footage of the secretly filmed RAC patrols was shown and the presenter said: *"We're being told to replace batteries when our tests say they are good. Time for some answers RAC"*.

The presenter was shown in the studio with one of the programme's other presenters, Mr Allwright. He said:

"We asked the RAC to come in and explain how 8 out of 10 good batteries were rejected by their patrolmen, but they declined. However, we do have a statement, Michelle?"

The presenter, Ms Ackerley, was shown in the studio, the RAC logo could be seen in the background. She said:

“Well, the RAC says it attends 2.3 million breakdowns a year and is not in the business of offering member's batteries they don't need. Saying it stands by the results it gave us in our 10 tests. It says it had the most advanced and most accurate battery tester available which can carry out two tests to give a more extensive diagnosis. The RAC adds that patrols will discuss options available at the roadside and says its battery related complaints have fallen since it introduced this new kit. The company says it takes member complaints very seriously. It has apologised to John Smith and resolved his case. It is reviewing Richard Walpole's complaint and says it has yet to hear from the other two customers in our film. The RAC has provided more information for any concerned customers, and all the info is on our website”.

Mr Allwright then said:

“Thanks Michelle. Now, you can of course talk to us if you've had a battery fitted by the RAC or anyone else, particularly if you've still got the old battery. We'd love to hear from you”.

The report on the RAC ended and it was not featured again in the programme.

Summary of the complaint and broadcaster's response

Complaint

Unjust or unfair treatment

- a) The RAC complained that it was treated unjustly or unfairly in the programme as broadcast on 30 November 2016 because it gave a misleading and unfair impression that the RAC was replacing car batteries unnecessarily.

In particular, the impression given was that the RAC had assessed that there was no problem with the car battery, but had somehow “bamboozled” customers who had complained to the programme into having them replaced. The RAC said that the programme did not reflect that the “serviceable recharge” diagnosis (received by the case studies featured) meant that a jump start would be likely to result in the battery failing a few hours later.

The RAC also said that the RAC patrols had been presented with entirely artificial scenarios in which the undercover customers “insisted” on buying a new battery, provided vague answers as to the cause of the breakdowns and appeared reluctant to take various other options which were offered by the patrols.

- b) The RAC complained that it was not given an appropriate and timely opportunity to respond to the serious allegations made in the programme. In particular, it said that the timeframe given for it to respond was unreasonable and “deliberately designed to minimise” its ability to properly investigate the claims made.

Unwarranted infringement of privacy

- c) The RAC complained that its privacy was unwarrantably infringed in connection with the obtaining of material included in the programmes broadcast on 16 and 30 November

2016 because its employees were filmed surreptitiously without its consent. Specifically, it said it did not consider the secret filming by the BBC was warranted.

- d) The RAC also complained its privacy was unwarrantably infringed in the programmes as broadcast in that surreptitiously filmed material of its employees were included without its consent.

The broadcaster's response

The BBC said it believed there was a clear public interest in gathering and broadcasting material which showed the RAC, a national organisation with over eight million members, was unnecessarily advising its members to replace functional and working car batteries.

It said the programme focussed on the advice which was given to motorists by RAC patrols and that expert evidence and recognised testing procedures indicated that this advice was resulting in its members needlessly buying a new car battery. The BBC said the *Watchdog* investigation was prompted by evidence from two RAC "whistleblowers" who raised concerns about the diagnosis and advice given by patrol staff attending roadside call-outs. The programme also received evidence from RAC members with first-hand experience of being given poor, or misleading, advice about replacing batteries by RAC patrols.

Unjust or unfair treatment

- a) The BBC said that the programme makers were provided with persuasive evidence from two RAC employees that patrol staff were giving poor, or inaccurate, advice to motorists and telling them to replace car batteries which did not need to be replaced. It said that the programme makers considered that there was a clear public interest in testing whether the allegations were reasonable and whether the practice was widespread.

The broadcaster explained it decided to conduct ten separate, random roadside tests across England and Wales to assess the "expert" advice given to RAC members by RAC patrols when they attended a call-out involving a flat car battery. The cars used in the tests reflected a range of makes, models and ages and were all checked by one of the programme's two independent experts to ensure there were no mechanical issues with the vehicles. The BBC explained that the batteries in the cars were either the existing ones or, where that battery was unsuitable, a working battery was substituted.

It said that the condition of each battery was tested in advance by the independent experts commissioned by the programme and that the testing procedure followed was the one routinely used across the industry by roadside assistance companies and motoring supply companies. The BBC said that it was also the test recommended and approved by the manufacturers of car batteries and that this was clearly stated in the programme.

The BBC said that it was reasonable to rely on the results of the test most widely used and approved by all relevant branches of the industry. It said that the results of the tests on the ten batteries used by the programme makers in the roadside scenarios showed that they were fully working and did not need to be replaced.

The broadcaster explained that the ten car batteries were then deliberately discharged under controlled, expert supervision at the ten roadside locations to ensure that they

could not be used to start a vehicle, but were not damaged in the process. It said the discharge process was used to save time, but also it replicated what would happen if a vehicle's lights or another source of power had been left turned on. Therefore, the discharge of these batteries reflected a "real life" scenario where a car battery had insufficient power to enable the starter motor to turn the engine and start the vehicle. The BBC explained that a number of undercover researchers for the programme then used genuine RAC memberships to call the RAC and request roadside assistance.

The BBC said the scenarios replicated the kind of routine call-out made by members. It added that the ten transcripts of the roadside tests showed there was no evidence to support the RAC's assertion that the programme's undercover researchers were reluctant to consider any of the options discussed with the RAC patrols and "insisted on buying a new battery".

The BBC gave the example of an RAC patrol who had attended the call out in Kilburn and had said "*You need to get that battery replaced in the very near future*", but once he had established the car was "*starting without any hassle*", the undercover researcher followed his advice to drive the car back to her destination without replacing the existing battery.

The broadcaster said that the transcripts showed that the undercover researchers gave a reasonable summary of the problem with the vehicle, sought the opinion of the RAC patrol, asked the kind of questions a motorist might pose in such circumstances, gave appropriate responses to the questions they were asked, and openly considered the possible options to resolve the problem.

The broadcaster said that in each case, it was the RAC patrol who chose to check and test the car's battery and, in eight of the ten cases, it was the RAC patrol who said that the existing battery needed to be replaced, based on information gathered from the diagnostic tests carried out. The BBC said that the evidence showed the RAC patrol clearly stated that the old battery needed to be replaced. It said that there was no evidence to support the RAC's suggestion the situation was manipulated by the undercover researchers, or that they insisted on a buying new battery. It explained that the programme clearly reflected that whilst most RAC patrols had provided the programme's researchers with the option to drive on, those that did provide this option also warned that it came with risks.

Following the broadcast, the BBC said that all eight batteries which the RAC patrols said needed to be replaced had been periodically tested by the programme's independent expert, and that all eight were still working.

In relation to the claim that the programme gave the misleading and unfair impression members were "bamboozled" into replacing good car batteries, the BBC said that the evidence presented in the programme was accurate and fair to the RAC.

The BBC said that the programme included four case studies of members who were told to replace their batteries even though the RAC patrol tests indicated the batteries were still working adequately. In relation to the case of John and Sheila included in the programme, the BBC said that the RAC had accepted Mr Smith was sold a battery he did not need and had issued an apology and financial compensation.

The BBC said that in the other three case studies, the RAC provided a follow-up document to each member called "Test results and/or Patrol Comments" which showed "Test Result: Serviceable Recharge". The BBC said that the RAC had told it that a "serviceable recharge" diagnosis "...means that the battery has good CCA and reserve capacity, but is flat. A simple jump start will start the engine, but may not provide sufficient power fully to recharge the battery. It is therefore very likely to fail again within hours. Such a battery needs to be fully recharged using a battery charger, usually for between five and 12 hours. When recharged, it should be restored to acceptable health".

The broadcaster said that the RAC's own assessment indicated that the batteries in question did not need to be replaced and once fully recharged "should be restored to acceptable health". It added that the programme's independent expert agreed that a "serviceable recharge" diagnosis means the battery will be serviceable and functional once recharged. It said there was, therefore, no good reason for the RAC to advise all three members to replace the battery with a new one and so it was both reasonable and accurate for the programme to highlight the fact RAC members were given poor and inappropriate advice.

- b) The BBC said that the RAC was given written notice on Monday 14 November 2016 that *Watchdog* intended to broadcast a report about the unnecessary replacement of car batteries. It added that the broad outline of the programme was initially explained in a telephone call to the RAC and this was immediately followed by a letter from the programme makers which set out the BBC's allegations and its evidence.

The broadcaster said that the letter set out the evidence of the ten tests, provided dates, times, locations, the RAC membership numbers used, the vehicles in question, and a summary of the advice provided by the RAC patrol. It said it also included details of the independent expert who tested the car batteries in each case. The BBC explained that the programme makers had requested a written response from the RAC for inclusion on the *Watchdog* website by Monday 21 November 2016, more than four full working days from receipt of the letter, and invited a representative of the RAC to be interviewed for the programme on Tuesday 22 November 2016.

It explained that the RAC responded by telephone and email on Wednesday 16 November 2016 and that the email demonstrated a clear understanding of the allegations being made by *Watchdog* and said "...we will be providing a statement at a later stage".

The BBC explained that the programme makers received a letter from the RAC's solicitors, on Thursday 17 November 2016, significantly in advance of the original deadline set by the programme makers. It said that the letter offered a full and comprehensive analysis of the allegations which had been made and a rebuttal of those allegations. The BBC said that this clearly demonstrated that the RAC had a full understanding of the concerns which had been raised by the programme makers. It said that the letter confirmed that: the RAC had "*carried out a thorough investigation of the ten incidents staged...*"; had consulted the relevant RAC patrols; and, had discussed the methodology used by the BBC with the supplier of its own testing equipment.

The BBC said that it had responded on Saturday 19 November 2016 and provided further information as requested by the RAC. It added that the RAC responded with a further

letter on Monday 21 November 2016 which raised additional issues and on Tuesday 22 November 2016, the RAC provided a statement for publication on the website and confirmed that the RAC's chief engineer would be available to be interviewed for the programme. The BBC said this indicated that the RAC understood the allegations being made and considered it was able to provide an informed response.

The BBC said that it subsequently delayed the transmission date of its report from the original date of Wednesday 23 November 2016 to allow a full consideration and investigation of the points which had been raised by the RAC. It said this was conveyed to the RAC in an email at 14:44 on Tuesday 22 November 2016.

The broadcast explained that it sent a further letter to the RAC on Friday 25 November 2016 which set out additional details of a further three complaints which had been made by members about the RAC's advice on changing car batteries and provided an informed and considered response to the points raised by the RAC. A further invitation was made to appear on the programme to offer a response to the concerns raised. There was a further exchange of correspondence on Monday 28 November 2016.

The BBC stated that the regular and extensive correspondence demonstrated the RAC was given a fair and reasonable opportunity to respond to the concerns which had been raised and was given full and accurate details of the allegations which the programme intended to make. This was summarised in the letter from the BBC to the RAC dated 28 November 2016:

"...you have been on notice that Watchdog is investigating this particular issue of why RAC patrols are recommending replacement of batteries which pass standard battery tests since November 14 and we are aware through the correspondence that you have been engaged with and investigating this issue since then. While our letter sets out new details of contributors who have had direct experience of this issue with the RAC, the central issues remains as set out in our original letter: why are RAC patrols giving this advice? That is the question we examine in our report and we believe you have had ample time to consider it and respond".

The BBC said that the RAC was given an appropriate and timely opportunity to respond to the allegations in the programme. It added that the RAC confirmed on 17 November 2016 it had "carried out a thorough investigation of the ten incidents staged...". The BBC argued that none of the additional allegations made in the BBC's letter of 25 November 2016 were so complex, so serious or so different from those raised previously that it was not unreasonable to expect the RAC to respond within four working days.

Unwarranted infringement of privacy

The BBC said that even if it was accepted that corporate bodies enjoy rights of privacy (as distinct from confidentiality), it found it difficult to see that the privacy of the RAC could be infringed to any significant extent by the filming of its employees, at the locations seen in the programme, and engaged in transactions with its customers, the contents of which were in no sense intrinsically private.

It said that it believed the use of surreptitious filming was warranted to confirm *prima facie* evidence obtained by the programme that RAC patrols were giving members poor and misleading advice which led to them paying the unnecessary cost of replacing a working car

battery. The BBC added that it was necessary to test this evidence to ensure the credibility of any subsequent broadcast report and to authenticate the information already obtained. It said that further material evidence could not be obtained in any other way.

The BBC therefore maintained that there was a clear public interest in gathering evidence to confirm whether or not RAC members were being given bad advice which was costing them money.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both the complainant and the broadcaster were given the opportunity to make representations on the Preliminary View, but neither 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.

We carefully considered all the relevant material submitted by the parties. This included a recording of the programme as broadcast and transcript, the unedited footage of the surreptitiously filmed material and transcript, both parties' written submissions, and supporting documentation.

Unjust or unfair treatment

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code").

In addition to this Rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) Ofcom first considered whether the RAC was treated unjustly or unfairly in the programme as broadcast on 30 November 2016 because it gave a misleading and unfair impression that it was replacing car batteries unnecessarily.

In assessing the complaint, we took into account Practice 7.9 which states:

“Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation...”.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they were presented in the programme. Therefore, Ofcom began by considering whether the allegations complained of had the potential to materially and adversely affect viewers' opinion of the RAC in a way that was unfair.

It is important to emphasise that Ofcom is unable to make findings of fact in relation to the claims made about the RAC and the replacement of batteries by its roadside patrols in the programme. Our role is to consider whether by broadcasting the comments made about them in the programme the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to the complainant.

We first considered the way in which the case studies were presented in the programme. Four case studies were featured (i.e. John and Sheila, Kate, Richard and Stephen). In each case the RAC member complained their battery had been replaced, but in their view this was done unnecessarily. In the first case, of John and Sheila, the programme explained that the couple had kept the battery and later retested it. It was explained that they had been told by a third (unspecified) party that the battery was functional and a jump start was all that was necessary. The RAC had later given the couple a refund and an additional payment of £115. In the further three case studies featured in the programme, the post testing paperwork provided by the RAC to the RAC members following the replacement of their car batteries was shown. In each case the “State of health” of the battery was highlighted (100%, 60% and 60% respectively) and the test result was listed on screen as “Serviceable Recharge”.

Later in the programme the presenter, Ms Ackerley, stated “*Customers are being told to replace batteries when the RAC's own tests say they are good*”. During the course of the programme the commentary referred twice for the need for the RAC to answer “*serious questions*” about the replacement of batteries and asked “*...why on earth is the RAC giving this advice in the first place?*”.

We took the view that the claim that the RAC had unnecessarily replaced the batteries had the potential to have materially and adversely affected viewers' opinions of the RAC as it: questioned the propriety of the organisation; and, implied that the RAC was profiting by undertaking repair work that was unnecessary.

Ofcom next considered whether the programme reflected the “Serviceable Recharge” diagnosis received by the case studies (i.e. John and Sheila, Kate, Richard and Stephen) featured in the programme by the RAC and explained in the pre-transmission correspondence. On 25 November 2016, the BBC wrote to the RAC setting out the details of the four case studies it intended to feature. In each case the BBC said that the RAC members they intended to feature had been advised the battery needed to be replaced. The RAC responded in a letter dated 29 November 2016:

"A simple jump start will start the engine, but may not provide sufficient power fully to recharge the battery. It is therefore very likely to fail again within hours. Such a battery needs to be fully recharged using a battery charger, usually for between five and 12 hours. When recharged, it should be restored to acceptable health... It should be noted that simply jump starting the vehicle and advising the member to drive for a prolonged period is unlikely sufficiently to recharge the battery to restore it to good condition".

However, this correspondence was marked "NOT FOR BROADCAST". The RAC also provided a statement for broadcast on the same date. This was reflected in the programme and is set out in full in the "Programme Summary" section above. In particular, the programme stated that the RAC's position was that it had:

"...the most advanced accurate battery tested available which can carry out two tests and give a more extensive diagnosis".

The statement provided for broadcast on 29 November 2016 did not put forward the RAC's position (as set out in the letter not for broadcast) that, in its view, the batteries were likely to fail soon after if a jump start had been performed. The RAC also provided the BBC with a statement for the programme's website on the same date. This included much of the information included in the statement for broadcast, but also it stated that its testing equipment was "more accurate" as it measured not only:

"...whether the battery can start a vehicle once, but also whether it has enough endurance to keep the vehicle starting over the coming days and weeks".

As noted above, it is not Ofcom's role to act as the arbiter of facts in this case and take a position on the relative efficiency of the systems used by the BBC and the RAC but to establish whether, in this particular case, the RAC's position was adequately reflected in the programme so as to ensure it was not treated unjustly or unfairly.

We considered that the RAC had set out in the pre-transmission correspondence that its testing equipment differed from that used by the BBC and that its position was that the advice to replace batteries was based on both the current health of the battery and whether its tests indicated if the battery was likely to fail soon. However, in the statement it provided to the BBC for broadcast this point was not made. The pre-transmission correspondence between the parties was lengthy and contained a lot of technical information. Ofcom considered it was reasonable of the BBC to reflect the facts as set out in the statement provided for the specific purpose of inclusion in the programme.

Given this, Ofcom considered that the broadcaster had adequately and fairly reflected the RAC's position on the "Serviceable Recharge" diagnosis point in the programme.

Next, Ofcom considered the complaint that the RAC patrols had been "presented with entirely artificial scenarios" during the surreptitious filming and questioning the conduct of the programme's researchers who had posed as potential customers. The programme explained that it had taken:

"...ten cars to ten different locations across the country. And enlisted two forensic vehicle examiners who conducted the industry standard tests battery manufacturers

recommend to test the health of our batteries. They told us all ten batteries were good and did not need replacing... They then ran them down until there wasn't enough power to start the engine".

As set out in detail in the "Programme summary" section above, a number of different RAC patrols were shown advising the programme's researchers who posed as RAC members. The programme explained that eight of the ten RAC patrols had advised the potential customers that their batteries needed to be replaced and footage was shown of the RAC patrols using the diagnostic equipment and advising the customers to this end.

Ofcom compared the footage included in the programme with the unedited and broadcast material of the surreptitious filming. While the RAC's position was that its employees were presented with an artificial scenario, Ofcom considered that the BBC had taken reasonable steps to create scenarios which mimicked real life. Specifically:

- the BBC hired experts to drain the batteries of the vehicles to simulate conditions experienced by members of the public;
- the experts ensured that the batteries were not damaged in the process; and,
- the experts ensured there were no other mechanical issues with the vehicles.

We did not consider, therefore, that the programme's researchers had misled the RAC patrols as to the causes of the breakdown to a disproportionate degree.

We also considered that the footage included in the programme reflected an accurate account of the encounters between the various RAC patrols and the programme's researchers. The unedited footage showed that the programme's researchers did not insist on buying new batteries, or appear reluctant to consider other options. On various occasions, they asked the RAC patrol what their advice was and they were advised that the battery needed to be replaced. The advice was instigated by the RAC patrols as a result of the tests they had undertaken and at no point did the programme's researchers pre-empt this advice by, for example, asking for the battery to be checked. Many of the patrols advised that the programmes' researchers could either have the battery replaced by the RAC or find an alternative place to do so. We considered that this was reflected fairly in the programme by the presenter who said:

"Although nearly all the patrols said we could drive on and get our battery replaced elsewhere, they warned it came with risks".

Taking all the above factors into account, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to the RAC.

- b) We next considered whether the RAC were given an appropriate and timely opportunity to respond to the serious allegations made in the programme.

Practice 7.11 states:

“If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond”.

We first considered whether the statements made in the programme amounted to a significant allegation of wrongdoing or incompetence. As set out in detail in the “Programme summary” section above, the programme claimed that RAC patrols were advising customers to replace good batteries unnecessarily. Ofcom considered that this constituted a significant allegation of wrongdoing or incompetence and that, in accordance with Practice 7.11, the programme makers needed to offer the RAC an appropriate and timely opportunity to respond to it in order to avoid unfairness.

The RAC's complaint related to the time period in which they were given to respond to the allegations made. We took account of the extensive pre-transmission correspondence between the complainant and the broadcaster. In summary:

The first letter from the BBC dated 14 November 2016 gave the RAC four and a half working days to respond to the allegations made about it in the programme. The letter set out, among other things: details of the undercover filming; and the opinion of the expert that the batteries had been replaced unnecessarily. Following a series of correspondence between the parties the RAC provided a detailed “Not for broadcast” letter on 21 November and a further statement on 22 November. Ofcom considered that the information provided to the RAC in its original letter was detailed (for example, by providing the RAC membership numbers of the ten undercover incidents as well as the dates and times) and allowed sufficient time for a large organisation to investigate complaints of this nature. In any event, the broadcaster chose to withdraw the item from that week's edition of the programme and therefore the correspondence continued.

On Friday 25 November 2016, the BBC wrote to the RAC requesting a further statement and included details of three further case studies (Kate, Richard and Stephen) it intended to feature in the programme. This letter gave the RAC one and a half working days to respond. Ofcom noted this was a limited amount of time however, the allegations regarding which the BBC sought comment from the RAC on were substantively similar and had been answered at length by the RAC in the pre-transmission correspondence. On 29 November 2016, the RAC provided two submissions to the BBC; one was a letter from its legal representatives labelled “NOT FOR BROADCAST” which addressed the issues raised in relation to the three further case studies; the other was a statement for broadcast and a separate statement for the BBC's website.

The letter of 29 November 2016 from the RAC's legal representatives addressed the issues raised by the experiences of the three new case studies fully and as a large organisation the RAC had the resources available to it to do so.

Ofcom considered that the complainant therefore had an appropriate and timely opportunity to respond to the serious allegations made about it in the programme and that there was no unfairness in this regard.

- c) Ofcom next considered the RAC's complaint that its privacy was unwarrantably infringed in connection with the obtaining of material included in the programmes because its employees were filmed surreptitiously without its consent.

Practice 8.5 states:

"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:

"The means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme".

Practice 8.13 states:

"Surreptitious filming or recording should only be used where it is warranted. Normally, it will only be warranted if:

- there is *prima facie* evidence of a story in the public interest;
- there are reasonable grounds to suspect that further material evidence could be obtained; and
- it is necessary to the credibility and authenticity of the programme".

Ofcom considered whether the RAC's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme and trailer which had been filmed surreptitiously, namely the footage of its employees who had been called to the ten fabricated breakdowns.

We first assessed whether it was warranted for the programme makers to use surreptitious methods to film the RAC's employees in line with Practice 8.13.

We examined the reasons why the programme makers had decided to surreptitiously film the RAC employees, as set out in the broadcaster's representations.

We considered that the information gathered by the programme makers before the surreptitious filming took place amounted to *prima facie* evidence of a story in the public interest. In Ofcom's view, given the evidence of alleged wrongdoing relayed to the BBC by the whistleblowers, on the material available to it, the programme makers had reasonable grounds to suspect that further evidence could be obtained by surreptitious filming. Further, it would have been unlikely that the programme makers could have captured the advice of the RAC patrols speaking openly to customers if filming had been overt. Lastly, Ofcom considered the surreptitious filming was necessary to the credibility and authenticity of the programme, because it enabled the programme makers to show the first-hand evidence of the RAC's diagnosis of batteries at the roadside. It was our view therefore that the programme makers' decision to surreptitiously film the RAC patrols speaking with potential customers was warranted. We also considered that the means of obtaining the material had been proportionate in the circumstances.

In light of the above, our view is that the broadcaster complied with Practice 8.13 and that use of surreptitious filming was warranted.

Ofcom next assessed the extent to which the RAC had a legitimate expectation of privacy with regards to the footage of its employees filmed surreptitiously.

The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact-sensitive and must always be judged in light of the circumstances in which an individual or organisation concerned finds themselves. Ofcom therefore approaches each case on its facts, since legitimate expectations of privacy will vary according to the place and nature of the 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. In particular, as stated in the Code, there may be circumstances where people and organisations may have a reasonable expectation of privacy even in a public place. Some activities and conditions may be of such a private nature that filming or recording, even in a public place, could involve an infringement of privacy.

It should be noted that Ofcom is not concerned with privacy of the individual RAC patrol employees featured in the programmes. Rather, we have considered whether the RAC as an organisation had a legitimate expectation of privacy in the obtaining of material included in the programme as broadcast. None of the individuals included in the programme complained to Ofcom that their privacy had been unwarrantably infringed.

From the footage shown in the programme and the unedited rushes, we observed that RAC employees were filmed in a variety of roadside locations as they interacted with the potential RAC members. From the unedited footage, it was apparent that the RAC employees were not aware they were being filmed surreptitiously. The filming took place in private driveways or next to cars parked on the public highway and was therefore in areas accessible to the public. However, Ofcom took the view that, ordinarily, conversations in which the parties felt they could speak openly and freely could reasonably be regarded as being confidential and, therefore, could attract an expectation of privacy.

We next considered whether any private or sensitive information was revealed about the RAC in the conversations between its employees and the undercover researchers. Having examined the unedited surreptitiously filmed material we did not consider that the RAC's employees disclosed anything particularly private or sensitive about the RAC as an organisation. The RAC patrols typically: explained they would use testing equipment to diagnose why the cars would not start; spoke about the diagnostics from the testing equipment and (where relevant) the cost of replacing the car batteries; where relevant fitted the new batteries. Ofcom recognised that many of the conversations focused on a business matter involving a financial transaction and such conversations would usually attract an expectation of privacy. However, as an organisation the RAC publicises on its website the price for it to replace a battery and therefore that could not be reasonably considered to be private information. As set out above, we are not considering the expectation of privacy of the individuals negotiating these transactions but the information only as it related to the RAC as a company.

The filming also took place at locations which were accessible to the public in that any member of the public passing could have overheard the interactions on the road or the driveways. In our view, there was nothing in the material obtained which could have reasonably been regarded as being particularly private or sensitive to the RAC.

Given all the above factors, we considered that the RAC did not have a legitimate expectation of privacy with regards to the filming of its employees undercover. Having come to this view, it was therefore unnecessary for Ofcom to consider whether any infringement of the RAC's privacy was warranted.

We considered, therefore, that there was no unwarranted infringement of the RAC's privacy in connection with the obtaining of this material included in the programme.

- d) Ofcom considered the complaint that the RAC's privacy was unwarrantably infringed in the programme as broadcast in that surreptitiously filmed material of its employees were included without its consent.

Practice 8.6 states:

"If the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted".

Practice 8.14 states:

"Material gained by surreptitious filming and recording should only be broadcast when it is warranted".

Before assessing whether the RAC's privacy was unwarrantably infringed in the programme as broadcast we again considered whether it was warranted to film surreptitiously in accordance with Practice 8.13. For the reasons set out in head c) above, Ofcom considered that the use of surreptitious filming was warranted in the particular circumstances of this case.

We first considered the extent to which the RAC may have had a legitimate expectation of privacy in relation to the broadcast of the surreptitiously filmed footage of its employees. As stated above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective, fact sensitive and must always be judged in light of the circumstances in which the individual or organisation finds themselves.

As set out in the "Programme Summary" section and head a) above, the programme broadcast on 30 November 2016 included footage of RAC patrols interacting with potential employees and advising them as to whether their battery needed to be replaced. We also considered the brief inclusion of this footage in the programme broadcast on 16 November 2016.

The RAC was identifiable from the footage in that it was named in both programmes and its logo was shown in the surreptitiously filmed footage on its vans and the uniform of the RAC employees.

Again, Ofcom took the view that, ordinarily, conversations in which the parties felt they could speak openly and freely could reasonably be regarded as being confidential and therefore attract an expectation of privacy. However, the footage as broadcast in the programme did not disclose any particularly private or sensitive information about the RAC. For instance, it did not disclose anything that could have been considered commercially confidential about the finances or operations of the company. As set out

above, the pricing information that was disclosed is openly available on the RAC's website. Further, the conversations were all held in publicly accessible areas in that they were held outside, in private driveways where any member of the public passing by could have overheard. Indeed, the employees were under the impression they were talking to members of the public. The RAC employees that were filmed were the public facing division of the organisation and not those involved in any back office or confidential function; their day to day interactions were with the public and the information they gave was directly to the public.

It was Ofcom's view that for the same reasons, as outlined above at head c), the RAC did not have a legitimate expectation of privacy with regards to the broadcast of the footage of its employees. The footage of the RAC's employees included in the programme was filmed in a publicly accessible area and in our view, no information that could reasonably be regarded as being private or sensitive to it.

For these reasons, it was Ofcom's view that the RAC did not have a legitimate expectation of privacy with regard to the broadcast of the surreptitiously filmed material of its employees. Having come to this view, it was unnecessary for Ofcom to consider whether any infringement of the RAC's privacy was warranted.

We considered, therefore, that there was no unwarranted infringement of the RAC's privacy in relation to the broadcast of the material in these circumstances.

Ofcom has not upheld the RAC's complaint of unjust or unfair treatment and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Not Upheld

Complaint by Mr Adam Heatherington *Channel 4 News, Channel 4, 20 February 2017*

Summary

Ofcom has not upheld Mr Heatherington's complaint of unwarranted infringement of privacy in the programme as broadcast.

The programme included a report about the resignation of Mr Heatherington from his position as Chairman of the UK Independence Party ("UKIP") Merseyside branch following comments made by the leader of the party and a party donor about the Hillsborough disaster. The programme's reporter was shown knocking on the front door of Mr Heatherington's house to seek his comment. The name of the road in which Mr Heatherington lived was also disclosed.

Ofcom considered that Mr Heatherington did not have a legitimate expectation of privacy in the broadcast of footage which partially identified the location of his home because this information was already in the public domain. Therefore, there was no unwarranted infringement of Mr Heatherington's privacy.

Programme summary

On 20 February 2017, Channel 4 broadcast an edition of its evening news programme, *Channel 4 News*. The programme contained a report about the resignation of two UKIP officials following comments by the leader of the party, Mr Paul Nuttall, about the Hillsborough disaster. The presenter explained that:

"Paul Nuttall had to apologise last week after a statement on his website falsely claimed that he lost 'close friends' at Hillsborough".

A reporter, who was shown outside Liverpool Football Club, said that Mr Nuttall had said previously that he was a:

"...survivor of the Leppings [Lane] end catastrophe but he has also said in public that he wasn't in the Leppings Lane terrace at all– he was in the Upper Tier seats. A safe place, and in no sense a survivor of what happened at all".

A survivor of the Hillsborough disaster and Liverpool's Mayor were interviewed about the comments. The reporter explained that *"millionaire UKIP donor Arron Banks"* had tweeted about the controversy saying *"I'm sick to death of hearing about it..."* and in a further tweet *"Milking a tragedy forever is sick"*. The reporter explained that:

"That comment, along with Mr Nuttall's, were too much for Adam Heatherington [the complainant], Chairman of UKIP's regional Merseyside branch, and Stuart Monkham, Chairman of Mr Nuttall's own branch on Merseyside – and both have resigned".

A campaign video of Mr Heatherington was then shown. He spoke briefly of his candidacy for Mayor of Liverpool. Footage of the exterior of Mr Monkham's home was then shown and the

reporter explained that the programme makers had visited his address that morning, but said that he was *"not at home"*. The reporter stated:

"Across town, yet more mystery on Mystery Close".

Footage of a road sign was shown in close up which read *"City of Liverpool. Mystery Close, L15"*. The reporter was shown knocking on a front door and explained that Mr Heatherington was *"also out"*. The number on the front door was blurred. The reporter said:

"At this house, Mr Heatherington's house, he's not here either. Now, of course, none of these two officials have done anything wrong as it were. They have simply resigned because of the wider mess – but there is a pattern emerging. Two senior officials, neither of whom are at home, neither of whom are available on their mobile phones, and the party leader – well, exactly the same curious pattern".

The reporter explained the programme makers had asked UKIP to comment, but that they *"...did not have any comment to give us"*. The report ended and the programme made no further reference to Mr Heatherington.

Summary of the complaint and the broadcaster's response

Mr Heatherington complained that his privacy was unwarrantably infringed in the programme as broadcast because his address, including the name of his road, was disclosed in the programme without his permission. Mr Heatherington said that he had been *"targeted"* because of the broadcast.

Channel 4 said that the focus of the report was the UKIP leader, Mr Nuttall, who it said had made false claims that he had lost *"close personal friends"* at the Hillsborough disaster and that he had been a *"survivor"* of the Lepping Ends part of the Hillsborough stadium. However, it said that Mr Nuttall had previously claimed he was sitting in the Upper Tier of the stadium. It said that Mr Heatherington was, at the time, Chairman of UKIP's regional Merseyside branch. The broadcaster explained that Mr Heatherington and another senior official had publicly resigned, citing *"upsetting and intolerable comments"* made about the Hillsborough disaster as their reasons for quitting. It added that the programme makers had sought comment from Mr Heatherington on the day on the issues and on his reasons for resigning, but were unsuccessful.

Channel 4 said that at one point in the report, the road sign *"Mystery Close"* was briefly visible and that the reporter had stated *"Across town, yet more mystery on Mystery Close"*. The reporter was also shown outside a door. The broadcaster said that a close-up shot of a white door was seen with the number blurred. It added that the houses in the road seemed to be a similar style and *"are not distinctively different"* and a lot of the doors in the street seemed to be painted white. It added that the road where the house was located comprised of approximately 40 identical, relatively new-build houses and blocks of flats and most of the doors were similar.

The broadcaster said that the following steps were taken in the report so that the specific address was not identifiable:

- the house number was blurred;

- the report did not give the specific number of Mr Heatherington's house; and
- care was taken not to show a clear image of the approach to the door/driveway, or any wide shot of the house.

Channel 4 said that the context and choice of wording in the report were relevant in that two prominent local party officials had made high-profile resignations and then were seemingly uncontactable. The broadcaster said that one of them, Mr Heatherington, lived in a road named Mystery Close and that the disclosure of the road name was a light-hearted and incidental reference. It added that the wording of the report was a question of editorial judgement on the day and within the boundaries of freedom of expression.

Channel 4 also said that Mr Heatherington's address was already in the public domain in that:

- Mr Heatherington had stood for election for Liverpool City Council and his home address was on the relevant forms published online.
- He was (and is) a director of a company and his home address was listed on the Companies House website which was accessible to the public. It added that the complainant had not hidden his home address from the public register, for example, by using a service address.

Channel 4 supplied Ofcom with the relevant website addresses for these documents. The broadcaster explained that although care was taken to ensure that Mr Heatherington's specific house number was not identifiable, it noted the concerns raised by Mr Heatherington by the light-hearted reference to the road name. It said that the programme makers were first made aware of Mr Heatherington's concerns on receipt of the complaint by Ofcom. It said that prompt action was taken to remove both the reference to Mystery Close and the road sign footage from the report online. The broadcaster added that the report did not contain any criticism of Mr Heatherington and made clear to viewers that neither of the two officials had done anything wrong and had taken a principled stand to resign from UKIP in protest at the comments made by the UKIP leader. Further, the broadcaster said that Mr Heatherington's address was (and remained) accessible online in public registers, both in his capacity as a political candidate in the public eye, standing for elections and, to a lesser degree, in his role as a company director. Channel 4 said that it therefore did not believe that in the context of the report the light-hearted reference to the road name amounted to an infringement of Mr Heatherington's privacy.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Mr Heatherington's complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. The complainant made representations which are (insofar as they were relevant to the complaint as entertained and considered by Ofcom in the Preliminary View) summarised below. The broadcaster did not submit any representations.

Mr Heatherington's representations

Mr Heatherington said that in running in any election, your home address has to be given to the electoral officer at the council to show you reside in the ward and documentation is kept

for their internal records. He said that it was not true that he had stood for election for Liverpool City Council and that his home address was on the relevant forms published online. He said that his address was left off the ballot paper and that all political publications have carried other addresses than his home address. Mr Heatherington also said that his company director details were online for business reasons and that it was only for HMRC use.

Mr Heatherington said that he believed that Channel 4 had obtained his details from the electoral roll and that it had chosen to broadcast his exact address. He said that his house in Mystery Close had a distinctive a privet hedge to which no other house in the road has any resemblance. This was clearly visible on the programme footage. Mr Heatherington maintained that Channel 4 had no right to disclose the exact location of his home.

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.

We carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a transcript of it, and both parties' written submission. Ofcom also took careful account of the representations made by the complainant in response to being given the opportunity to comment on Ofcom's Preliminary View. We considered the points raised by Mr Heatherington relating to the accessibility of his address, but we were satisfied from viewing the information on the websites provided to us by the broadcaster that Mr Heatherington's home address was publicly available. Given this, we concluded that Mr Heatherington's representations did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

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.

In addition to this Rule, Section Eight (Privacy) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 8.1 and failure to follow these

practices will only constitute a breach where it results in an unwarranted infringement of privacy.

In assessing Mr Heatherington's complaint that his privacy was unwarrantably infringed in the programme as broadcast because his address, including the name of his road, was disclosed in the programme without his permission, we had regard to Practice 8.2 which states:

"Information which discloses the location of a person's home or family should not be revealed without permission, unless it is warranted".

We first considered the extent to which Mr Heatherington had a legitimate expectation of privacy in relation to the broadcast of footage which named his road.

The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact-sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself in. Ofcom therefore approaches each case on its facts. As stated in the Code, there may be circumstances where people can reasonably expect privacy even in a public place. Some activities may be of such a private nature that filming or recording, even in a public place, could involve an infringement of privacy. As set out in the Code "legitimate expectations of privacy will vary according to...the extent to which it is in the public domain (if at all) and whether the individual concerned is already in the public eye".

As set out in the "Programme Summary" section above, the programme included footage of a reporter outside Mr Heatherington's home. The reporter was shown in a close-up knocking on a white front door, the number being obscured. No other detail of the house was shown. The reporter identified the property as "*Adam Heatherington's house*" and the house was identified as being in "*Mystery Close*" by the reporter and the footage of the road sign. The footage indicated that the filming had taken place on Mr Heatherington's private driveway, rather than the public footpath given the reporter and cameraperson were stood next to the front door.

Ofcom considered that Mr Heatherington was a public figure who had chosen to stand for a national party in a high profile Mayoral election, and also previously in local council elections. The wider context in which the footage was broadcast was to illustrate the reporter's attempts to talk to Mr Heatherington about his decision to resign from his position as Chairman of UKIP's regional Merseyside branch, a public and political role.

We took into account the information on the websites provided to us by the broadcaster, which both listed Mr Heatherington's home address – including the road name and house number. Two of the websites included documents published by the local council that listed the home address of each of the candidates standing in local council elections. These documents were accessible to the public (in that they were openly available on the internet) and were published by the local council as part of the electoral process. We also noted that Mr Heatherington had chosen to use his home address for the purpose of registration with Companies House, which was also openly accessible to the public, and that Mr Heatherington could have chosen to list an alternative address for this purpose.

We also took into account the measures the broadcaster said it had taken so that the specific address was not identifiable, i.e. that the reporter was not shown approaching the house so

as to identify its exact location; the door was typical to many in the road; and, the number of the house had been obscured by the programme makers.

Ofcom considers that an individual may have a legitimate expectation of privacy in relation to the location of his or her home even where that location is publicly available on a variety of searchable databases (such as the electoral roll). However, in this case Mr Heatherington's home address had previously been published in full in the context of his candidacy for local elections and it remained accessible to the public at the time of the broadcast. Therefore, given that only the street name was disclosed, we did not consider that the footage broadcast revealed anything particularly private or sensitive about Mr Heatherington.

Taking all the above factors into account, therefore, we considered that Mr Heatherington did not have a legitimate expectation of privacy in relation to the broadcast of footage which included the name of his road. As such, it was not necessary for Ofcom to consider whether any infringement of his privacy was warranted.

Ofcom has not upheld Mr Heatherington's complaint of unwarranted infringement of privacy in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 12 and 25 June 2017 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
Sara Cox Danceathon	BBC Red Button	21/03/2017	Offensive language
The Jeremy Kyle Show	ITV	22/05/2017	Offensive language
Keiser Report	RT	21/07/2016	Due impartiality

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 12 and 25 June 2017 because they did not raise issues warranting investigation.

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Gangland: Turf Wars	5Star	14/06/2017	Generally accepted standards	1
Jan Maan	ABP News	23/05/2017	Hatred and abuse	1
Hidalgo	AMC from BT	10/06/2017	Other	1
Bob's Breakfast	Bob FM	16/05/2017	Disability discrimination/offence	1
Scottish Football: Partick Thistle v Rangers	BT Sport 1	07/05/2017	Offensive language	1
BT Sport 2017/18 Season (trailer)	BT Sport 2	24/05/2017	Materially misleading	1
We Bare Bears	Cartoon Network	26/05/2017	Offensive language	1
Who Wants To Be a Millionaire?	Challenge	07/06/2017	Generally accepted standards	1
Ackley Bridge	Channel 4	07/06/2017	Generally accepted standards	1
Ackley Bridge	Channel 4	07/06/2017	Scheduling	1
Battling The Bailiffs	Channel 4	15/06/2017	Crime and disorder	1
Battling The Bailiffs	Channel 4	15/06/2017	Materially misleading	1
Brexit Special (trailer)	Channel 4	11/06/2017	Generally accepted standards	1
Channel 4 News	Channel 4	23/05/2017	Generally accepted standards	1
Channel 4 News	Channel 4	14/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	14/06/2017	Generally accepted standards	1
Channel 4 News	Channel 4	15/06/2017	Due impartiality/bias	2
Channel 4 News	Channel 4	19/06/2017	Under 18s in programmes	1
Channel 4's Alternative Election Featuring Gogglebox	Channel 4	08/06/2017	Due impartiality/bias	1
Naked Attraction	Channel 4	15/06/2017	Generally accepted standards	1
Naked Attraction	Channel 4	21/06/2017	Generally accepted standards	7

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Naked Attraction	Channel 4	22/06/2017	Generally accepted standards	1
President Trump: How Scared Should We Be?	Channel 4	03/04/2017	Due impartiality/bias	1
The Handmaid's Tale	Channel 4	11/06/2017	Advertising minutage	1
The Handmaid's Tale	Channel 4	11/06/2017	Sexual orientation discrimination/offence	1
The Jihadis Next Door	Channel 4	19/01/2016	Generally accepted standards	1
The Last Leg Elegtion Special	Channel 4	09/06/2017	Due impartiality/bias	4
The Last Leg Elegtion Special	Channel 4	09/06/2017	Generally accepted standards	1
The Last Leg Elegtion Special	Channel 4	09/06/2017	Nudity	1
The Last Leg Elegtion Special	Channel 4	09/06/2017	Religious/Beliefs discrimination/offence	3
Transitions Adaptive Lenses' sponsorship of Channel 4 Weather	Channel 4	14/06/2017	Sponsorship credits	1
Big Brother	Channel 5	05/06/2017	Disability discrimination/offence	2
Big Brother	Channel 5	05/06/2017	Offensive language	3
Big Brother	Channel 5	07/06/2017	Elections/Referendums	1
Big Brother	Channel 5	07/06/2017	Generally accepted standards	1
Big Brother	Channel 5	08/06/2017	Nudity	2
Big Brother	Channel 5	09/06/2017	Generally accepted standards	2
Big Brother	Channel 5	09/06/2017	Voting	1
Big Brother	Channel 5	10/06/2017	Generally accepted standards	8
Big Brother	Channel 5	10/06/2017	Offensive language	3
Big Brother	Channel 5	10/06/2017	Race discrimination/offence	10
Big Brother	Channel 5	11/06/2017	Generally accepted standards	14
Big Brother	Channel 5	11/06/2017	Offensive language	2
Big Brother	Channel 5	11/06/2017	Race discrimination/offence	37
Big Brother	Channel 5	12/06/2017	Dangerous behaviour	1
Big Brother	Channel 5	13/06/2017	Other	1
Big Brother	Channel 5	13/06/2017	Violence	1
Big Brother	Channel 5	14/06/2017	Race discrimination/offence	31

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Big Brother	Channel 5	15/06/2017	Race discrimination/offence	5
Big Brother and Big Brother's Bit on the Side	Channel 5	08/06/2017	Violence	1
Big Brother's Bit on the Side	Channel 5	14/06/2017	Race discrimination/offence	1
The Wright Stuff	Channel 5	02/06/2017	Generally accepted standards	1
The Wright Stuff	Channel 5	06/06/2017	Elections/Referendums	1
The Wright Stuff	Channel 5	12/06/2017	Due impartiality/bias	1
There's a Croc In My Kitchen	Channel 5	16/06/2017	Animal welfare	7
Chart Big Hits	Chart Show TV	15/06/2017	Sexual material	1
CNN News	CNN	23/05/2017	Generally accepted standards	2
Friends	Comedy Central	06/06/2017	Offensive language	1
Coopers Treasure	Discovery	23/05/2017	Dangerous behaviour	1
Silent Witness	Drama	07/06/2017	Generally accepted standards	1
Silent Witness	Drama	07/06/2017	Religious/Beliefs discrimination/offence	1
8 Out of 10 Cats	E4	13/06/2017	Due impartiality/bias	1
The Seerah Show	Fast FM Newcastle	01/06/2017	Religious/Beliefs discrimination/offence	1
Die Hard	Film 4	16/06/2017	Generally accepted standards	1
Fox and Friends	Fox News	24/05/2017	Due impartiality/bias	1
Tucker Carlson: Tonight	Fox News	24/05/2017	Due impartiality/bias	1
Tucker Carlson: Tonight / The Five	Fox News	09/05/2017	Due impartiality/bias	1
Sam and Amy's Breakfast Show	Gem 106	01/06/2017	Generally accepted standards	1
Black Books	Gold	20/05/2017	Disability discrimination/offence	1
Azmat E Ahlebait	Hidayat TV	24/04/2017	Materially misleading	1
Taraweeh Prayers	Islam Channel	28/05/2017	Hatred and abuse	1
Benidorm	ITV	16/06/2017	Generally accepted standards	1
Britain's Got Talent	ITV	30/05/2017	Disability discrimination/offence	1
Britain's Got Talent	ITV	31/05/2017	Nudity	1
Britain's Got Talent	ITV	01/06/2017	Nudity	5
Britain's Got Talent	ITV	02/06/2017	Offensive language	2
Britain's Got Talent	ITV	02/06/2017	Race discrimination/offence	5

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Britain's Got Talent	ITV	03/06/2017	Nudity	1
Britain's Got Talent	ITV	03/06/2017	Race discrimination/offence	13
Comparethemarket.com's sponsorship of Coronation Street	ITV	02/06/2017	Sponsorship credits	2
Coronation Street	ITV	29/05/2017	Scheduling	1
Coronation Street	ITV	30/05/2017	Violence	1
Coronation Street	ITV	31/05/2017	Generally accepted standards	3
Coronation Street	ITV	01/06/2017	Generally accepted standards	24
Coronation Street	ITV	02/06/2017	Generally accepted standards	8
Coronation Street	ITV	05/06/2017	Generally accepted standards	6
Coronation Street	ITV	07/06/2017	Sexual material	3
Coronation Street	ITV	09/06/2017	Disability discrimination/offence	1
Coronation Street	ITV	09/06/2017	Other	1
Coronation Street	ITV	16/06/2017	Drugs, smoking, solvents or alcohol	73
Emmerdale	ITV	08/06/2017	Sexual material	5
Emmerdale	ITV	14/06/2017	Scheduling	2
Emmerdale	ITV	16/06/2017	Generally accepted standards	2
Emmerdale	ITV	20/06/2017	Disability discrimination/offence	1
Emmerdale	ITV	20/06/2017	Generally accepted standards	1
Emmerdale	ITV	20/06/2017	Violence	2
Fearless	ITV	12/06/2017	Dangerous behaviour	1
Fearless	ITV	12/06/2017	Drugs, smoking, solvents or alcohol	1
Fearless	ITV	19/06/2017	Offensive language	1
Good Morning Britain	ITV	06/06/2017	Harm	1
Good Morning Britain	ITV	07/06/2017	Crime and disorder	2
Good Morning Britain	ITV	08/06/2017	Generally accepted standards	1
Good Morning Britain	ITV	13/06/2017	Generally accepted standards	1
Good Morning Britain	ITV	14/06/2017	Generally accepted standards	69
Good Morning Britain	ITV	15/06/2017	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Good Morning Britain	ITV	15/06/2017	Religious/Beliefs discrimination/offence	1
International Football Live	ITV	10/06/2017	Generally accepted standards	2
International Football Live	ITV	10/09/2017	Materially misleading	1
ITV Election 2017	ITV	08/06/2017	Due impartiality/bias	1
ITV News	ITV	29/05/2017	Due impartiality/bias	1
ITV News	ITV	14/06/2017	Generally accepted standards	7
ITV News Special	ITV	23/05/2017	Generally accepted standards	1
Lorraine	ITV	15/05/2017	Generally accepted standards	1
Lorraine	ITV	30/05/2017	Offensive language	3
Lorraine (trailer)	ITV	13/06/2017	Nudity	1
Screwfix's sponsorship of ITV coverage of England Football	ITV	10/06/2017	Sponsorship credits	1
Tennis: French Open	ITV	10/06/2017	Other	2
The Chase	ITV	27/04/2017	Materially misleading	1
The Loch (trailer) and Love Island (trailer)	ITV	10/06/2017	Scheduling	1
The Manchester Attack – A Tonight Special	ITV	25/05/2017	Materially misleading	1
The Real Full Monty	ITV	15/06/2017	Dangerous behaviour	1
This Morning	ITV	12/06/2017	Due impartiality/bias	1
Weekend	ITV	10/06/2017	Animal welfare	1
ITV News Lookaround	ITV Border (English)	01/06/2017	Elections/Referendums	1
ITV News London	ITV London	14/06/2017	Generally accepted standards	1
ITV Meridian News	ITV Meridian	09/06/2017	Other	1
Celebrity Juice	ITV2	21/06/2017	Sexual orientation discrimination/offence	1
Coronation Street	ITV2	30/05/2017	Scheduling	1
Coronation Street Omnibus	ITV2	18/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	05/06/2017	Generally accepted standards	1
Love Island	ITV2	08/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	09/06/2017	Violence	1
Love Island	ITV2	11/06/2017	Race discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Love Island	ITV2	11/06/2017	Sexual material	1
Love Island	ITV2	12/06/2017	Generally accepted standards	3
Love Island	ITV2	13/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	13/06/2017	Generally accepted standards	3
Love Island	ITV2	13/06/2017	Offensive language	1
Love Island	ITV2	14/06/2017	Generally accepted standards	2
Love Island	ITV2	15/06/2017	Gender discrimination/offence	2
Love Island	ITV2	15/06/2017	Sexual material	1
Love Island	ITV2	22/06/2017	Drugs, smoking, solvents or alcohol	3
Love Island (trailer)	ITV2	11/06/2017	Sexual material	1
Love Island	ITV2+1	09/06/2017	Generally accepted standards	1
Aviva Equity Release's sponsorship of Afternoons on ITV3	ITV3	Various	Sponsorship credits	1
Specsavers audiologists' sponsorship of ITV3 Mornings	ITV3	Various	Sponsorship credits	1
BET 365's sponsorship of French Open coverage	ITV4	Various	Sponsorship credits	1
Death Wish 4	ITV4	12/06/2017	Advertising placement	1
Isle of Man TT Superbike	ITV4	04/06/2017	Generally accepted standards	1
World Rugby U20s Championship	ITV4	18/06/2017	Race discrimination/offence	1
Botched	Kanal 11	06/06/2017	Scheduling	1
Våra Pinsamma Kroppar (Embarrassing Bodies)	Kanal 11	08/06/2017	Gender discrimination/offence	1
James O'Brien	LBC 97.3 FM	06/06/2017	Harm	1
James O'Brien	LBC 97.3 FM	07/06/2017	Elections/Referendums	1
James O'Brien	LBC 97.3 FM	15/06/2017	Race discrimination/offence	1
Nick Abbot	LBC 97.3 FM	10/06/2017	Animal welfare	1
Nick Ferrari	LBC 97.3 FM	07/06/2017	Hatred and abuse	1
Nick Ferrari	LBC 97.3 FM	08/06/2017	Sexual material	1
Nigel Farage	LBC 97.3 FM	01/06/2017	Disability discrimination/offence	1
The English Harem	London Live	16/06/2017	Materially misleading	1
Time Team	More4	08/06/2017	Animal welfare	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
GPs Behind Closed Doors	My5	13/06/2017	Dangerous behaviour	1
The Hotel Inspector	My5	16/06/2017	Offensive language	1
News	n/a	14/06/2017	Generally accepted standards	1
The Loud House (trailer)	Nick Jr. +1	10/06/2017	Scheduling	1
Henry Danger	Nickelodeon +1	13/06/2017	Dangerous behaviour	1
Teenage Mutant Ninja Turtles	Nicktoons	18/06/2017	Scheduling	1
The Force: Essex	Pick	18/06/2017	Generally accepted standards	1
Jodie Marsh On... Women Who Pay For Sex (trailer)	Quest Red	31/05/2017	Sexual material	1
Press Preview	Sky News	10/06/2017	Due impartiality/bias	1
Press Review	Sky News	07/06/2017	Violence	1
Sky News	Sky News	14/03/2017	Due impartiality/bias	1
Sky News	Sky News	31/03/2017	Under 18s in programmes	1
Sky News	Sky News	04/06/2017	Race discrimination/offence	4
Sky News	Sky News	06/06/2017	Generally accepted standards	1
Sky News	Sky News	07/06/2017	Elections/Referendums	1
Sky News	Sky News	07/06/2017	Generally accepted standards	1
Sky News	Sky News	08/06/2017	Violence	1
Sky News	Sky News	09/06/2017	Due accuracy	1
Sky News	Sky News	10/06/2017	Offensive language	1
Sky News	Sky News	12/06/2017	Due impartiality/bias	1
Sky News	Sky News	12/06/2017	Generally accepted standards	1
Sky News	Sky News	14/06/2017	Generally accepted standards	9
Sky News	Sky News	15/06/2017	Generally accepted standards	2
Sunrise	Sky News	07/06/2017	Elections/Referendums	1
Sunrise	Sky News	08/06/2017	Race discrimination/offence	1
May v Corbyn Live: the Battle for Number 10 (trailer)	Sky1	29/05/2017	Elections/Referendums	1
The Simpsons	Sky1	09/06/2017	Offensive language	1
Screwfix's sponsorship of ITV coverage of England Football	STV	10/06/2017	Sponsorship credits	1
Programming	Takbeer TV	23/05/2017	Advertising minutage	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Julia Hartley– Brewer	TalkRadio	05/06/2017	Harm	2
Thank God It's Friday	Talksport	16/06/2017	Generally accepted standards	1
Intruders	TV3 Sweden	10/06/2017	Gender discrimination/offence	1
Crank 2: High Voltage	TV6 Sweden	14/06/2017	Gender discrimination/offence	1
News	Various	19/06/2017	Religious/Beliefs discrimination/offence	1
Criminal Minds Beyond Borders (trailer)	W	13/06/2017	Violence	1

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

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
BBC News	BBC 1	04/04/2017	Due impartiality/bias	1
Casualty	BBC 1	15/04/2017	Violence	1
EastEnders	BBC 1	31/03/2017	Generally accepted standards	1
Have I Got News For You	BBC 1	16/12/2016	Age discrimination/offence	1
Panorama	BBC 1	05/04/2017	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	19/02/2017	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	11/06/2017	Undue prominence	1
Six Nations: Wales v England (trailer)	BBC 1 Wales	10/02/2017	Race discrimination/offence	1
Fidel Castro – America's Nemesis	BBC 2	28/11/2016	Materially misleading	1
Newsnight	BBC 2	17/03/2017	Due impartiality/bias	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

For more information about how Ofcom assesses complaints about broadcast licences, go to:
https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints assessed under the Procedures for investigating breaches of rules for On Demand programme services

Service provider	Categories	Number of complaints
Demand 5	Access services	1

For more information about how Ofcom assesses complaints about on demand services, go
to: [https://www.ofcom.org.uk/_data/assets/pdf_file/0033/74499/procedures-
investigating-breaches.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf)

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 or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/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:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	Absolute Radio	14/06/2017	Advertising content	1
Advertisement	Channel 5	12/06/2017	Advertising content	16
Advertisement	Discovery Home & Health (UK)	19/06/2017	Advertising content	1
Advertisement	E4	17/06/2017	Advertising content	1
Michelle Denman	Hospital Radio Hillingdon	01/06/2017	Outside of remit	1
Advertisement	ITV / Channel 4	19/06/2017	Advertising content	1
Advertisement	ITV2	19/06/2017	Advertising content	1
Advertisement	n/a	16/06/2017	Advertising content	1
Advertisement	Sky News	14/06/2017	Advertising content	1

Complaints about the BBC, not assessed

A new BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the new independent regulator of the BBC.

Here are alphabetical lists of complaints about the BBC that Ofcom was unable to assess. This is because Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision. The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Programming	BBC	Various	Due impartiality/bias	1
BBC Election Debate 2017	BBC 1	31/05/2017	Elections/Referendums	1
BBC News	BBC 1	04/06/2017	Elections/Referendums	1
BBC News	BBC 1	05/06/2017	Due impartiality/bias	1
BBC News	BBC 1	07/06/2017	Elections/Referendums	1
BBC News	BBC 1	09/06/2017	Due impartiality/bias	2
BBC News	BBC 1	11/06/2017	Materially misleading	1
BBC News	BBC 1	14/06/2017	Generally accepted standards	2
BBC News	BBC 1	15/06/2017	Due accuracy	1
BBC News	BBC 1	17/06/2017	Due impartiality/bias	2
BBC News	BBC 1	22/06/2017	Due impartiality/bias	1
BBC News Special	BBC 1	04/06/2017	Generally accepted standards	1
BBC News Special	BBC 1	14/06/2017	Generally accepted standards	1
Breakfast	BBC 1	07/06/2017	Harm	1
Breakfast	BBC 1	10/06/2017	Due impartiality/bias	1
Breakfast	BBC 1	13/06/2017	Other	1
Breakfast	BBC 1	16/06/2017	Generally accepted standards	1
Breakfast	BBC 1	20/06/2017	Other	1
Broken	BBC 1	13/06/2017	Generally accepted standards	1
Dateline London	BBC 1	10/06/2017	Materially misleading	1
Doctor Who	BBC 1	27/05/2017	Undue prominence	1
Doctor Who	BBC 1	17/06/2017	Sexual material	1
EastEnders	BBC 1	01/06/2017	Harm	1
Election 2017	BBC 1	08/06/2017	Due impartiality/bias	1
Have I Got News For You	BBC 1	16/12/2016	Age discrimination/offence	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Panorama	BBC 1	19/06/2017	Generally accepted standards	1
Question Time	BBC 1	09/06/2017	Due impartiality/bias	3
The Graham Norton Show	BBC 1	09/06/2017	Generally accepted standards	1
The One Show	BBC 1	22/06/2017	Due impartiality/bias	1
The Politics Show East	BBC 1 (East)	28/05/2017	Elections/Referendums	1
BBC News	BBC 1 North West	11/06/2017	Due impartiality/bias	1
Look North	BBC 1 Yorks & Lincs	05/06/2017	Elections/Referendums	1
Daily Politics	BBC 2	12/06/2017	Due impartiality/bias	1
Daily Politics	BBC 2	13/06/2017	Due impartiality/bias	1
Great British Menu	BBC 2	15/05/2017	Materially misleading	1
Horizon – Why Did I Go Mad?	BBC 2	02/05/2017	Materially misleading	1
Jo Cox: Death of an MP	BBC 2	13/06/2017	Due impartiality/bias	1
White Gold	BBC 2	14/06/2017	Offensive language	1
Department Q: A Conspiracy of Faith	BBC 4	22/04/2017	Violence	1
BBC News	BBC Channels	12/06/2017	Due impartiality/bias	1
Election 2017 coverage	BBC Channels	Various	Elections/Referendums	1
BBC News	BBC News Channel	05/06/2017	Elections/Referendums	1
BBC News	BBC News Channel	07/06/2017	Due accuracy	1
BBC News	BBC News Channel	08/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	08/06/2017	Materially misleading	1
BBC News	BBC News Channel	15/06/2017	Due accuracy	1
BBC News	BBC News Channel	15/06/2017	Generally accepted standards	1
BBC News	BBC News Channel	16/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	17/06/2017	Due impartiality/bias	3
BBC News	BBC News Channel	Various	Generally accepted standards	1
Victoria Derbyshire	BBC News Channel	06/06/2017	Dangerous behaviour	1
Victoria Derbyshire	BBC News Channel	15/06/2017	Due accuracy	1
The Radio 1 Breakfast Show	BBC Radio 1	16/06/2017	Sexual material	1
Ed Miliband sits in for Jeremy Vine	BBC Radio 2	19/06/2017	Other	1
Jeremy Vine	BBC Radio 2	24/05/2017	Religious/Beliefs discrimination/offence	1
Jeremy Vine	BBC Radio 2	07/06/2017	Generally accepted standards	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Jeremy Vine	BBC Radio 2	08/06/2017	Violence	1
Jeremy Vine	BBC Radio 2	16/06/2017	Crime and disorder	2
Jeremy Vine	BBC Radio 2	16/06/2017	Due impartiality/bias	4
Any Answers	BBC Radio 4	10/06/2017	Due impartiality/bias	1
BBC News	BBC Radio 4	01/06/2017	Elections/Referendums	1
The Media Show	BBC Radio 4	17/05/2017	Materially misleading	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 and 25 June 2017.

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

Programme	Service	Transmission date
Health Time	Akaal Channel	14 November 2016
Big Brother	Channel 5	05 June 2017
Tucker Carlson: Tonight	Fox News	25 May 2017
Coronation Street	ITV2	03 June 2017
Ian Payne	LBC 97.3 FM	03 June 2017
Tarz E Hayaat	MATV	17 May 2017
Russell Brand	Radio X	28 May 2017
Tom Watson interview	Sikh Channel	18 May 2017
Sunrise	Sky News	17 May 2017

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

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

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

Programme	Service	Transmission date
Dispatches: Trump, the Doctor, and the Vaccine Scandal	Channel 4	8 May 2017
Inside the Gang: Young Blood	Channel 5	8 May 2017
Police Interceptors	Channel 5	22 May 2017

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

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee	Issues
Radio Asian Fever CIC	Key Commitments
Radio Ramadan Stoke	Retention and production of recordings

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf