

OFCOM BROADCAST AND ON DEMAND BULLETIN

Issue number 347
5 February 2018



Contents

Introduction	3
Notice of Sanction	
February Box <i>Al Arabiya News, 27 February 2016</i>	5
Note to Broadcasters	
Monitoring of diversity and equal opportunities in broadcasting	7
Broadcast Standards cases	
In Breach	
Cops UK: Bodycam Squad <i>Dave, 17 November 2017, 20:00 and 19 November 2017, 11:00</i>	9
Rickie, Melvin & Charlie in the Morning <i>Kiss, 20 November 2017, 08:10</i>	12
Tameside Today <i>Tameside Radio, 19 October 2017, 12:50</i>	14
To the Point <i>JUS Punjabi, 2 November 2017, 19:00</i>	16
Broadcast Fairness and Privacy cases	
Not Upheld	
Complaint by Mrs Allison Edwards, made on her own behalf and on behalf of her son <i>Dispatches: Trump, the Doctor and the Vaccine Scandal, Channel 4, 8 May 2017</i>	18
Complaint by Lidl UK GmbH <i>Supershoppers, Channel 4, 6 June 2017</i>	29
Tables of cases	
Investigations Not in Breach	41
Complaints assessed, not investigated	42
Complaints outside of remit	51
BBC First	52
Investigations List	54

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.

Notice of Sanction

February Box

Al Arabiya News, 27 February 2016

Introduction

Al Arabiya News is an Arabic language news and current affairs channel. The Ofcom licence for Al Arabiya News is held by Al Arabiya News Channel FZ-LLC ("Al Arabiya News" or the "Licensee").

Ofcom has imposed a sanction on the Licensee following a breach of the Ofcom Broadcasting Code ("the Code") related to the programme February Box. The programme reported on an attempt made in February and March 2011, by a number of people including the complainant¹, Mr Hassan Mashaima, to change the governing regime in Bahrain from a Kingdom to a Republic. It included an interview with Mr Mashaima, filmed while he was in prison awaiting a retrial, as he explained the circumstances which had led to his arrest and conviction. The interview included Mr Mashaima making confessions as to his participation in certain activities. Only approximately three months prior to the date on which Al Arabiya News said the footage was filmed, an official Bahraini Commission of Inquiry had found that similar such confessions had been obtained from individuals, including Mr Mashaima, under torture. During Mr Mashaima's subsequent retrial and appeal, he maintained that his conviction should be overturned, as confessions had been obtained from him under torture.

Summary of Decision

In Ofcom's Adjudication ("the Adjudication") published on 24 April 2017, in issue 327 of the Broadcast and On-Demand Bulletin (the "Bulletin")², Ofcom found that the programme had breached Rules 7.1 and 8.1 of the Code:

Rule 7.1: Broadcasters must avoid unjust or unfair treatment of individuals or organisations in programmes.

Rule 8.1: Any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

The Adjudication set out specifically the reasoning as to why Ofcom upheld the complaint of unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programme and the programme as broadcast.

In Ofcom's view the breaches were serious and we therefore considered the imposition of a statutory sanction in this case. In considering the sanction Ofcom took account of the

¹ Mr Husain Abdulla complained to Ofcom on behalf of Mr Hassan Mashaima about unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programme and the programme as broadcast on Al Arabiya News on 27 February 2016.

² https://www.ofcom.org.uk/data/assets/pdf_file/0013/101227/Issue-327-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf

particular seriousness of this breach. We were also concerned that the Licensee did not appear to understand fully its obligations to comply with all parts of the Code.

In the circumstances, and in accordance with Ofcom's penalty guidelines, Ofcom decided that it was appropriate and proportionate in the circumstances to impose a financial penalty of **£120,000** on the Licensee in respect of these serious Code breaches (payable to HM Paymaster General). In addition, Al Arabiya News has been directed to broadcast a statement of Ofcom's findings in this case, on a date and in a form to be determined by Ofcom, and not to repeat the material found in breach again.

The full decision was published on 25 January 2018 and is available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0030/109767/Al-Arabiya-sanction.pdf

Note to Broadcasters

Monitoring of diversity and equal opportunities in broadcasting

Introduction

In December we published an update note to broadcasters in Ofcom's Broadcast and On Demand bulletin issue number 344 setting out, amongst other things, that we would be embarking on the second round of television monitoring and the next steps for conducting monitoring across the radio industry. This note provides more detail on the planned next steps for conducting the television monitoring exercise and an update on the status of the radio monitoring exercise. Also highlighted is the recent publication of a consultation on Ofcom's Diversity and Inclusion Plan.

Monitoring of the television industry

Stage one information request

In week commencing 19 February we will be sending an initial information request to each licensee who told us last year that their employees totalled **50 or under** and to any new licensees. You will only receive this information request if the number of your employees falls within this threshold or you are a new licensee; broadcasters with **more than 50 employees** will not be involved at this stage (see below). The stage one information request will ask for information related to your number of employees and the number of days you are licensed to broadcast per year, to identify whether you are required to complete a full questionnaire at stage two (see below). This request will be sent to company secretaries by post and to licence contacts by email. The questionnaire will take the form of an online survey, which can be accessed via a link, included as part of the email sent to licence contacts.

You will have ten working days to complete the information request. If you fail to submit the requested information by the specified date, we may find you in breach of your licence.

Stage two information request

Licensees identified at stage one as meeting the relevant thresholds¹, along with licensees who told us last year that they have **over 50 employees**, will receive the Stage two information request in the Spring. This will consist of a detailed questionnaire asking about your equal opportunities arrangements and your workforce, which will need to be completed and returned to Ofcom. The details of how and when to do this will be included with the questionnaire.

How will the information be used?

We will use the information to produce our second annual diversity and equal opportunities in television report in Autumn 2018.

¹ Have more than 20 employees and licensed to broadcast for more than 31 days per year.

Monitoring of the radio industry

On 12 January 2018, Ofcom issued a Stage 2 information request to radio licensees who met the relevant thresholds² to complete the detailed questionnaire about their equal opportunities arrangements and their workforce. The information will be used to produce our first annual report on diversity and equal opportunities in radio. The report will be published in Spring 2018. The deadline for completing the questionnaire and returning it to Ofcom is 16 February 2018. If you fail to submit the requested information by this date, we may find you in breach of your licence.

Publication of consultation on Ofcom's Diversity and Inclusion Plan

- On 23 January Ofcom proposed a four-year programme of work to ensure that diversity and inclusion remain central to how we operate, both as an employer and as the UK's communications regulator. Our [Diversity and Inclusion programme](#) reviews the progress we have made in this area since 2014, and sets out our proposed objectives and actions for the period 2018-2022.
- Our consultation provides an opportunity for those with an interest in Ofcom's work on diversity and equality to comment on our proposed objectives, and contribute any further suggestions. Responses must be submitted by 5pm on Friday 23 February 2018.

Any broadcasters who have questions related to this note please contact diversityinbroadcasting@ofcom.org.uk

Finally, we would like to remind you that it is your responsibility to ensure that your contact details held by Ofcom are accurate and up-to-date. Therefore, if this isn't the case, we ask that you email Broadcast.Licensing@ofcom.org.uk with your correct contact details.

² Have more than 20 employees and licensed to broadcast for more than 31 days per year.

Broadcast Standards cases

In Breach

Cops UK: Bodycam Squad

Dave, 17 November 2017, 20:00 and 19 November 2017, 11:00

Introduction

Dave is a general entertainment television channel. The licence for Dave is held by UKTV Media Limited ("UKTV" or "the Licensee").

Cops UK: Bodycam Squad is a documentary series following the work of Staffordshire Police (the first force in the UK to equip all officers with body cameras) as they respond to emergencies, investigate crimes and arrest suspects.

Ofcom received nine complaints about offensive language in the episode of *Cops UK: Bodycam Squad* broadcast at 11:00 on 19 November 2017. On 20 November 2017, the Licensee notified Ofcom of this incident and also that the same episode, including the same offensive language, had been broadcast at 20:00 on 17 November 2017.

The episode included repeated uses of offensive language, for example: 15 uses of the word "fuck" or "fucking" as well as eight uses of the words: "shit"; "piss off"; "dickhead"; "nigger"; "pussyhole"; "Paki"; and "gippo".

Ofcom considered this material raised issues under the following rules of the Code:

Rule 1.14: "The most offensive language must not be broadcast before the watershed...".

Rule 1.16: "Offensive language must not be broadcast before the watershed...unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed".

We therefore asked UKTV how the content complied with these rules.

Response

The Licensee acknowledged that the two transmissions of this episode were in breach of Rules 1.14 and 1.16.

UKTV said that the offensive language had been broadcast as a result of actions taken by TVT, a company responsible for some of the Licensee's compliance viewing. It provided a copy of a report submitted by TVT, which explained that TVT had accidentally linked the post-watershed version of this episode to a pre-watershed identification number. Further, TVT had allowed the episode to bypass "the post-edit review" stage of the compliance process before it was sent for transmission.

According to UKTV, TVT had since taken "a number of steps to prevent a mistake like this occurring again" focusing on: firstly, preventing the wrong version of the material being

imported onto the transmission system; and second, ensuring that no pre-watershed version of a post-watershed programme can proceed to transmission “unless it has been fully viewed by a member of TVT’s compliance team” post-editing.

The Licensee said that the episode in this case had been removed from UKTV schedules and that it had checked the entire series of *Cops UK: Bodycam Squad* to ensure that no other episodes had been incorrectly attributed as suitable for pre-watershed broadcast. The Licensee said that as well as notifying Ofcom about this error, it had also issued an apology directly to viewers who had complained as well as via social media platforms.

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

This rule states that the most offensive language must not be broadcast before the watershed on television.

The programme included 15 uses of the words “fuck” and “fucking”.

Ofcom’s 2016 research² on offensive language clearly indicates that the word “fuck” and variations of it are considered by audiences to be amongst the most offensive language and should not be broadcast before the watershed. Ofcom’s Decision is, therefore, that the two broadcasts of this programme were clear breaches of Rule 1.14.

Rule 1.16

This rule states that offensive language must not be broadcast before the watershed unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed.

Consistent with the broadcaster’s and audience’s right to freedom of expression, there is no prohibition on offensive language being broadcast before the watershed, as long as it is justified by the context.

The programme included approximately eight instances of offensive language. These included strong discriminatory and sexually offensive language such as “nigger”, “Paki”, “gippo” and “pussyhole”.

Ofcom’s offensive language research clearly indicates that words such as “Paki” and “nigger” are the strongest examples of discriminatory offensive language and viewers considered these words unacceptable for broadcast at all times unless there was strong contextualisation. The sexually graphic word “pussy” – broadcast in this instance as “pussyhole” – was also considered a more offensive word and generally viewed as

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

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

unacceptable pre-watershed. Our research also found that "gippo" was seen by some viewers as derogatory and insulting, implying negative connotations with Gypsies and Travellers. "Shit" and "piss[ed] off" were considered medium language, with some potential to offend pre-watershed.

We went on to consider whether the multiple and frequent uses of strong discriminatory and sexually offensive language in addition to the moderately offensive words in this case were justified by the context.

The offensive language broadcast in this episode highlighted the challenging behaviours faced by the police force in dealing with aggressive suspects. However, it is Ofcom's view that there was insufficient context to justify the strength and the frequency of the offensive language used throughout this programme in either of the scheduled timeslots.

We acknowledged the steps taken by the Licensee to notify Ofcom promptly of this error and to improve compliance. However, Ofcom's Decision is that the two broadcasts of this programme also breached of Rule 1.16.

Breaches of Rules 1.14 and 1.16

In Breach

Rickie, Melvin & Charlie in the Morning Kiss, 20 November 2017, 08:10

Introduction

Kiss is a national radio station specialising in urban and dance music. The licence for Kiss is held by Bauer Radio Limited ("the Licensee").

Ofcom received a complaint about the broadcast at 08:10 of David Guetta's *Dirty Sexy Money*. The track included one use of the word "fuckin".

We considered this raised potential issues 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 content complied with this rule.

Response

The Licensee expressed regret for what it described as an error, especially as it said it had been "very careful in [its] processes over recent years to check that on-air versions are clean". It explained that music tracks are normally double-checked before being added to the live playout system, and it described this incident as an unfortunate "exception to [its] carefully managed output". The Licensee told Ofcom that an edited version of the track was held on its system, but an unedited copy of the song had been sent to it by an external supplier and this version had been broadcast by mistake.

The Licensee said it has taken steps to prevent such incidents from recurring. It said that the supplier had written to acknowledge the error and confirmed "details of how they have improved their systems to avoid this in the future".

Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Ofcom's 2016 research on offensive language¹ clearly indicates that the word "fuck" and variations of it are considered by audiences to be amongst the most offensive language.

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

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

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 09:00 and 15:00 and 19:00 Monday to Friday during term-time...".

In this case the word "*fuckin*" was broadcast at 08:10 on a Monday during term time and therefore the most offensive language was broadcast when children were particularly likely to be listening. We took into account the steps taken by the Licensee to address the issues in this case, but our decision is that the broadcast was in breach of Rule 1.14.

Breach of Rule 1.14

In Breach

Tameside Today

Tameside Radio, 19 October 2017, 12:50

Introduction

Tameside Radio is a community radio station that broadcasts to Tameside in Greater Manchester. The licence for Tameside Radio is held by Quest Media Network Limited ("the Licensee").

Ofcom received a complaint that the programme *Tameside Today* included inappropriate remarks. The following comments, made by the presenter, were interspersed between appeals for charity donations:

"Frank has just passed me his wallet, loads of missing children in it which is fine".

"While we've got his wallet, we might as well look in it, there's a lovely little girl, he says his granddaughter... He doesn't have grandkids... It's very heavy though, very heavy, that'll be all the guilt".

Ofcom considered these comments raised potential issues under Rule 2.3 of the Code which states:

"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context ... Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language ... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence".

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

Response

The Licensee said that the comments had been picked up during internal monitoring as having potential to cause offence, prior to it being contacted by Ofcom. The Licensee also said the comments were "not planned, scripted or authorised and breached [its] own internal style guide on taste and decency". The Licensee detailed the actions taken to prevent the reoccurrence of such incidents, including further training on the Code and Ofcom decisions.

The Licensee told Ofcom that "the joke was not offensive to the intended target and he can indeed be heard laughing in the background". The Licensee also said that "at the time the presenter was not aware he had caused offence and has subsequently advised of his distress that any offence was caused". The Licensee also highlighted that it "received no complaints directly to the station and [was] unaware this comment had actually caused offence".

The Licensee described *Tameside Today* as a “magazine style show with comedic elements” and that the presenter’s style is “edgy and surreal mixed in with serious topics”. The Licensee therefore considered that the programme’s usual audience, the majority of whom are between the ages of 25 and 55, would be used to the style and humour. The Licensee also considered that the programme was broadcast at a time when children were unlikely to be listening as it was a school day.

Finally, the Licensee said that it and the presenter did not intend to cause offence and apologised for any offence caused.

Decision

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

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 Two.

Rule 2.3 states that material which may cause offence must be justified by the context. Context includes, but is not limited to, the likely size and composition of the audience, as well as their expectations, the time of the broadcast and the service the material was broadcast on.

We first considered whether the broadcast contained potentially offensive material. The presenter’s comments implied that his co-presenter was responsible for the disappearance of a number of children and he carried photos of these children in his wallet. The presenter attempted to make a joke that children had been the victims of serious crimes perpetrated by one of the programme’s presenters. In our view, this had the potential to cause offence. It could have been considered by listeners as seeking to undermine the seriousness of such crimes, and make light of real life cases of child abduction or abuse.

We then considered whether the material was justified by the context. We took into account that this was a magazine style show where regular listeners would expect edgy humor to be interspersed between serious topics. We also considered that the programme’s target audience is aged between 25 and 55, and that the programme was broadcast during the day in school term time.

We took into account that, following the broadcast, the Licensee identified the issue and independently took action to prevent a recurrence.

However, our decision is that the programme exceeded generally accepted standards, in breach of Rule 2.3.

Breach of Rule 2.3

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

In Breach

To the Point

JUS Punjabi, 2 November 2017, 19:00

Introduction

JUS Punjabi is aimed at the Punjabi community in the UK, broadcasting a mix of entertainment and news programmes. The licence for JUS Punjabi is held by JUS Broadcasting UK Pvt. Limited ("JUS Broadcasting" or "the Licensee").

Ofcom received a complaint about sponsorship of *To the Point*, a programme which discussed the provincial Punjabi government's efforts to combat the misuse of drugs.

Narration at the start of the programme and around advertising breaks during the programme stated, "*This programme is sponsored by*", followed by credits for Guralpal Oppal Immigration Lawyer, Crown Cash and Carry, and Ramada Hotels.

Ofcom considered that this material raised issues warranting investigation under the following Code rule:

Rule 9.15: "News and current affairs programmes must not be sponsored".

We therefore asked the Licensee for its comments on how the sponsorship of *To the Point* complied with this rule.

Response

The Licensee stated "there was an oversight on the part of the sales person who mistook the genre of the current affairs programme and wrongly allowed these tags to run". JUS Broadcasting added, "the channel is in the process of getting each programme reviewed by its compliance team and improving its communication between sales, programming and compliance in light of this issue and is committed to keeping updated with Ofcom rules".

Decision

Reflecting our duties under the Communications Act 2003¹, Section Nine of the Code prohibits the sponsorship of news and current affairs programmes. This supports the important principle that news and current affairs must be reported with due accuracy and presented with due impartiality. A broadcaster's editorial control over the content of its news and current affairs programming should not be, or appear to be, compromised.

A current affairs programme is defined in Section Nine of the Code as:

"...one that contains explanation and/or analysis of current events and issues, including material dealing with political or industrial controversy or with current public policy".

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

Given the debate and analysis of the issues discussed in the programme, i.e. the provincial Punjabi government's response to drugs misuse, we considered the programme constituted a current affairs programme under the Code. Further, the presentation of the sponsorship credits made clear that Gurpal Oppal Immigration Lawyer, Crown Cash and Carry, and Ramada Hotels sponsored the programme.

We took into account JUS Broadcasting's comments that the sponsorship credits were broadcast in error, and that it had taken steps to keep its staff "updated" about Ofcom's rules.

Ofcom's Decision is that the sponsorship of this edition of *To the Point* breached Rule 9.15.

Breach of Rule 9.15

Fairness and Privacy cases

Not Upheld

Complaint by Mrs Allison Edwards, made on her own behalf and on behalf of her son

Dispatches: Trump, the Doctor and the Vaccine Scandal, *Channel 4, 8 May 2017*

Summary

Ofcom has not upheld Mrs Allison Edwards' complaint of unwarranted infringement of privacy, made on her own behalf and on behalf of her son.

The programme, an investigative documentary investigating an alleged link between multiple or combined vaccines and autism, included footage of Mrs Edwards and her 14 year-old son (at the time of filming), and footage of her son receiving medical treatment. Mrs Edwards complained that their privacy was unwarrantably infringed in the programme as broadcast because she did not consent to the footage being included.

Ofcom found that Mrs Edwards and her son did not have a legitimate expectation of privacy with regards to the inclusion of the footage of them in the programme. The footage was already publicly available online, having been included, with Mrs Edwards' consent, in a trailer used in a 'pitch' for a television series and in a feature length documentary film, 'Vaxxed'. In these particular circumstances, we considered that there was no unwarranted infringement of the complainants' privacy in the broadcast of the footage of them in the programme.

Programme summary

On 8 May 2017, Channel 4 broadcast an edition of its investigative programme *Dispatches* entitled *Trump, the Doctor and the Vaccine Scandal*. The programme investigated an alleged link between multiple or combined vaccines, such as the Measles, Mumps and Rubella ("MMR") vaccine, and autism, and the people who endorsed this view, such as US President Donald Trump, Mr Robert Kennedy Junior, the nephew of former US President John F Kennedy, and Dr Andrew Wakefield, a doctor from the UK who had been struck off the medical register by the General Medical Council in 2010. In archive footage included in the programme, a reporter stated:

"Guilty of ethical breaches, including taking blood from children at a birthday party, Dr Wakefield was said to have been dishonest, misleading and irresponsible".

The presenter explained that Dr Wakefield had formed a relationship with President Trump and had had an "extraordinary comeback" in the USA. The presenter further stated:

"British scientist Andrew Wakefield, who left Britain after his work linking the MMR jab with autism, was debunked. But with Trump's support, he is riding high again and seducing audiences with scare stories".

The presenter stated that as a result of an increased fear in the USA of vaccines, preventable and lethal diseases were rising.

The programme showed a young girl who was too unwell to be vaccinated and explained that any infection could be a fatal risk to her health. The presenter explained that for children who could not be vaccinated:

"Their main protection from serious disease is that the rest of us are vaccinated, so they can't catch anything from us".

The presenter stated:

"But there's an even more serious allegation against Wakefield. He's been accused of exploiting the very children he says he wants to help. He's long believed that, not only is the MMR jab linked to autism, but that the condition can be treated. Four years ago, he came up with the controversial idea of making the treatment of autistic children into a reality TV series. He pitched it to some of America's biggest cable networks. We found the pitch tape which contains disturbing images. [Footage was shown of autistic children. Footage was included of the complainant and her son sitting at a table. Mrs Edwards' son was shown grasping at his throat with his hands. Their faces were obscured, and they were not named]. Autistic children self-harming and a 14 year-old boy [the complainant's son] has intrusive treatment with cameras and tubes going into his rectum and throat. We've chosen to conceal the identity of the children, Wakefield didn't. Julia Bascom [Autistic Self-Advocacy Network¹] campaigns for equal rights for autistic people. She is herself autistic".

Ms Bascom stated:

"So, that's obviously really disturbing content, to see autistic people being sort of dehumanised and used as objects to advance other people's agendas. As an autistic person it's always disturbing to see that".

The presenter asked:

"What about the ethics of filming a teenager having colonoscopy there?"

Ms Bascom responded:

"So, the litmus test we tend to use is, 'Would you do this to a non-autistic child?' and I think pretty clearly we wouldn't show and film a non-autistic teenager getting a colonoscopy. That's really as simple as it gets. It's quite appalling".

The presenter stated:

"No one commissioned the series, but it still runs on Wakefield's YouTube Channel".

¹ The Autistic Self Advocacy Network's website states that the organisation seeks to advance the principles of the disability rights movement with regards to autism.

The programme continued to investigate Dr Wakefield and his views. No further footage of the complainant or her son was included in the programme and they were not referred to again.

Summary of the complaint and the broadcaster's response

Mrs Edwards complained that her and her son's privacy was unwarrantably infringed in the programme as broadcast because footage of her and her son was included in the programme without her consent. Mrs Edwards said she gave permission for the footage to be included in an online "programme", but had not consented to its use in a television programme.

By way of background, Mrs Edwards said that the programme makers had contacted her to ask for her views on the potential link between autism and the MMR vaccine and whether she had been happy with how her life with her autistic son had been portrayed in the online material (produced by the Autism Team²). Mrs Edwards said that she had responded that she had been happy with her son's portrayal and had given her full consent for the footage to be used in the online programme.

The broadcaster's response

Background

Channel 4 said that the programme examined the connection between President Trump, Dr Wakefield and the growing anti-vaccine or 'pro-choice' movement in the USA. In particular, the programme focused on Dr Wakefield's resurgence in the USA and his attempts to reinvent himself as an authoritative voice on autism and vaccine safety. Channel 4 said that this issue was of "immense public interest" due to: the rising number of unvaccinated children; the concerning recent outbreaks of previously eradicated diseases such as measles in the USA; and, the potential threat to public health. It said that there had been a measles epidemic in the UK as recently as 2013, which affected over 1,000 people and was largely attributed to low vaccine levels following the MMR scare in the 1990s.

Channel 4 said that Dr Wakefield was the co-author of a 1998 study, published in the Lancet medical journal, which suggested a possible link between autism, gastrointestinal disease, and the MMR vaccine. The broadcaster said that Dr Wakefield had called for the suspension of the combined MMR vaccine, which it said caused a widespread health scare resulting in a drop in the number of parents choosing to vaccinate their children.

Channel 4 said that in 2004, Dr Wakefield was the subject of investigations of The Sunday Times newspaper and *Dispatches (MMR: What They Didn't Tell You)*, which considered the claims that the MMR vaccine was linked to autism. Channel 4 said that it was uncovered that Dr Wakefield had failed to disclose a conflict of interest in the funding of his research, and that he was instructed by lawyers representing parents who wanted to sue vaccine manufacturers as they believed their children had been harmed by MMR. The broadcaster said that Dr Wakefield had also filed a patent as one of the inventors of a single vaccine for the elimination of the measles virus and for the treatment of inflammatory bowel disease.

² The Autism Team is part of the Autism Media Channel Foundation. The Autism Media Channel Foundation's website states that the organisation's mission is to provide educational videos in the field of autism.

Channel 4 said that the British Medical Journal had “denounced his research as an elaborate fraud”.

Channel 4 said that Dr Wakefield had subsequently been ‘struck off’ by the General Medical Council (“the GMC”) in 2010, following an investigation in which he was found guilty of serious professional misconduct and ethical breaches, including unnecessarily subjecting children to invasive tests such as lumbar punctures and colonoscopies, without ethical approval; and taking blood samples for his research from children in return for money at his son’s birthday party. Channel 4 stated that:

“The GMC said that Dr Wakefield had been dishonest, irresponsible and showed callous disregard for the distress and pain of children and had abused his position of trust”.

Channel 4 said that as a result, the paper he co-authored was also withdrawn by the Lancet medical journal and discredited, and 10 of Dr Wakefield’s co-authors withdrew their names from the paper. It said that, in addition, 17 studies conducted subsequently had failed to establish a causal link between MMR and autism.

Channel 4 said that Dr Wakefield had then moved to Austin, Texas, where he went on to establish various organisations to further his controversial work on autism, including the ‘Autism Media Channel’. The mission statement of the Autism Media Channel states that it aims “to provide educational videos in the field of autism and associated disorders...to provide support and much needed guidance in all areas including causation, medical, educational, nutritional and vitally important, the future”. The broadcaster said that Dr Wakefield had previously pitched the idea for a reality television series about autism entitled ‘The Autism Team: Changing Lives’ to television network executives at an annual global conference for producers, distributors, agents, commissioners and television broadcasters working in unscripted and non-fiction entertainment. Channel 4 explained that the footage which included the complainants was obtained from a trailer used in this pitch entitled ‘Autism Team Trailer’ (“the trailer”). This was uploaded onto the Autism Media Channel YouTube account on 9 November 2012. Channel 4 said that the trailer featured several autistic children, some of whom it said appeared to be visibly distressed. It said that the voiceover identified the children by name and their faces were shown unobscured. It said that the trailer had been viewed 23,022 times at the time of Channel 4’s response to Ofcom’s complaint, and remained available to view publicly and without restriction on YouTube.

Channel 4 said that, in contrast, with regards to the programme in question, the complainants appeared intermittently. It said that Mrs Edwards appeared for two seconds and that her face was blurred, and that her son appeared for a total of 22 seconds and his face was also blurred. The broadcaster said that neither of the complainants were identifiable in any of the clips. Specifically, it said that: their faces were blurred; they were not named; nor were any personal details revealed about them. Channel 4 said that the footage had been included in the programme to “...illustrate a pattern of behaviour in the way in which Dr Wakefield treats vulnerable autistic children who he is allegedly seeking to help”. The broadcaster said that there was a clear public interest in “...revealing this exploitative behaviour, particularly given his [Dr Wakefield’s] growing influence in the anti-vaccine movement and the potential consequent damage to public health”.

Response to the complaint

Channel 4 said that the privacy of the complainants was not infringed in the broadcast of the programme and that the inclusion of the footage was warranted.

The broadcaster said that in its view the complainants did not have a legitimate expectation of privacy with regards to the footage included of them in the programme. It said that the footage was publicly available to view online as part of the trailer, which as stated above, had been viewed over 23,000 times. It said that neither of the complainants' identities were concealed in the trailer, their faces were not blurred, and they were identified by name. The trailer included several scenes involving Mrs Edwards' son, including being shown in hospital undergoing a colonoscopy, and also included footage of interviews with Mrs Edwards and her husband.

Channel 4 said that the Autism Media Channel YouTube account also had a shorter film about Mrs Edward's son, uploaded to YouTube on 28 April 2012, which featured some of the same content as the trailer and the footage included in the *Dispatches* programme. It said that this had been viewed 35,202 times at the time of its response to Ofcom's complaint, and again the complainants' identities were not concealed. Channel 4 further said that this material, uploaded by the Autism Media Channel, had been re-cut and re-posted by other YouTube users, and provided an example of another film in which the material had also been included. The broadcaster said that these films continued to be publicly available online following the broadcast of the programme.

Channel 4 said that the complainants were also featured in '*Vaxxed: From Cover-Up to Catastrophe*' ("*Vaxxed*"), a feature length documentary which was written and directed by Dr Wakefield. It said that the documentary claimed that the Centres for Disease Control, the national public health institute of the USA, destroyed data on a 2004 study which allegedly showed a link between the MMR vaccine and autism. Both the complainants and Mrs Edwards' husband were featured in *Vaxxed* and their faces were not blurred.

Channel 4 further said that *Vaxxed* was given a cinematic release and was available internationally. The *Vaxxed* website claimed that the film had had a gross of \$1.2 million in the USA and Canadian box office, was the eighth highest grossing documentary of 2016 and had been seen by more than half a million people in theatres. The film was: promoted globally; available to download from Amazon; available to purchase on DVD; and, available to stream on Vimeo. The complainants were given a credit for the appearance in *Vaxxed* on IMDB, the international movie database.

Channel 4 said that the complainants had a public profile and that Mrs Edwards had clearly consented to her and her son being featured and identified in both short online films and the feature length documentary, which included the footage of them complained of. It said that an unedited copy of the material had been made available to the public in a number of items on the internet prior to the programme being broadcast. In contrast, the broadcaster said that it had taken active steps to hide the identity of the complainants in the programme. Channel 4 said that therefore, in its view, the complainants did not have a legitimate expectation of privacy in relation to the programme as broadcast.

Channel 4 said that should Ofcom disagree, however, any infringement of the complainants' privacy was warranted in the circumstances. It said that the programme "...featured a subject matter of the most serious and important public interest, i.e. the growing anti-

vaccination movement and potential public health implications, including the decline in the number of vaccinated children and reported outbreaks of previously eradicated and preventable diseases in the USA". It said that this was of immense public interest and concern not only for audiences in the USA but also in the UK, especially given that Dr Wakefield continued to enjoy support in the UK and recently attended a screening of the Vaxxed documentary in London in February 2017.

Channel 4 said that it considered that it was editorially important to include the footage featuring the complainants in the programme to illustrate "...a continuing and concerning pattern of behaviour in Dr Wakefield's treatment of vulnerable and autistic children". It said that, as one of the contributors to the programme, Ms Bascom, Executive Director of the Autistic Self Advocacy Network, stated, a non-autistic child would not be shown having a colonoscopy and the footage was "obviously really disturbing".

Channel 4 said that efforts had been made in advance of its broadcast to edit the trailer and select appropriate footage to include in the programme. It said that: "This was primarily done to protect the dignity of the contributors, in particular the children suffering with autism, as Channel 4...considered it exploitative and inappropriate to identify vulnerable children undergoing invasive treatments or who were in a visible state of distress". It said that the complainants' faces were therefore blurred and that they were not identified by name, or otherwise, in the footage included in the programme. It said that not all of the material from the trailer had been used in the programme and that, for example, the interviews with Mrs Edwards and her husband were not included in the programme as broadcast.

Channel 4 said that further to this, it was not necessary to obtain the complainants' consent to include the footage of them in the programme as they were not identifiable in the programme as broadcast.

The broadcaster said that any intrusion into the complainants' privacy in the programme as broadcast, which it said that it did not admit to, was entirely warranted by the very high public interest value of the matters revealed, which outweighed any intrusion into the complainants' privacy.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Mrs Edwards' complaint, made on her own behalf, and on behalf of her son, should not be upheld. The parties were given the opportunity to make representations on the Preliminary View and both parties made representations which are summarised below (insofar as they were relevant to the complaint).

Mrs Edwards' representations

Mrs Edwards said that blurring her and her son's faces did not change the fact that she had given permission to the Autism Media Channel to portray her son's condition in a way that Mrs Edwards was happy with, and had given no such permission to Channel 4 to "skew that portrayal" to fit the programme's purpose. Mrs Edwards said that she and her son had become "dehumanised objects to be used for another context than that which we intended". She also said that she felt that she was "lied to" about the nature of the programme when originally contacted by the programme maker and had been "misrepresented" in the

programme. She further said that the inclusion of the footage of her son in the context of the programme had caused her distress and affected her emotionally.

Channel 4's representations

Channel 4 said that the complainants did not have a legitimate expectation of privacy with regard to the inclusion of the footage of them in the programme, as the footage was already publicly available online (and viewed thousands of times), having been included, with Mrs Edwards' consent, in a trailer used in a pitch for a television series and in a feature length documentary film. Furthermore, the complainants were not identified, nor were any other personal details revealed, in the programme. In those circumstances, Channel 4 considered that there was no requirement to obtain Mrs Edwards' consent to the inclusion of the footage in the programme.

In respect of Mrs Edwards' allegations of deception and misrepresentation on the part of the programme makers when contacting her, Channel 4 said that they did not appear to be relevant to Mrs Edwards' complaint of unwarranted infringement of privacy, but rather to allegations of unjust or unfair treatment of Mrs Edwards and her son. Channel 4 said that this element of complaint was not entertained by Ofcom, and that, in any event, the allegations were strongly denied, as evidenced by email correspondence between Mrs Edwards and the programme makers.

Decision

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

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

In reaching this decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast, the unedited footage of the complainants included in the online trailer, both parties' written submissions and supporting documentation. Ofcom also took account of the representations (in so far as they were relevant to the complaint entertained³) made by both parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of the representations submitted to Ofcom, we considered the points raised in our reasoning and concluded that they did not materially affect the outcome of Ofcom's decision not to uphold the complaint of unwarranted infringement of privacy in the programme as broadcast.

³ In this context, we took into account that Mrs Edwards' submissions that she had been "lied to" by the programme makers and had been "misrepresented" in the programme. This appeared to relate to a complaint of unfair and unjust treatment in relation to the programme as broadcast and, as such, went beyond the scope of the entertained complaint. We therefore did not consider these submissions to be relevant to the consideration of Mrs Edwards' complaint that her and her son's privacy had been unwarrantably infringed in the programme as broadcast.

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 and the audience's right to receive ideas and information without undue interference. 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.

Ofcom considered Mrs Edwards' complaint that her and her son's privacy was unwarrantably infringed in the programme as broadcast because footage of her and her son was included in the programme without their consent.

We had particular regard to Practices 8.6 and 8.10 of the Code. Practice 8.6 states:

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

Practice 8.10 states:

"Broadcasters should ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create an unwarranted infringement of privacy. This applies both to the material obtained from others and the broadcaster's own material".

Mrs Edwards

In considering whether Mrs Edwards' privacy was unwarrantably infringed in the programme as broadcast, Ofcom first assessed the extent to which she had a legitimate expectation of privacy in relation to the broadcast of the footage of her in the programme. The Code's statement on the meaning of "legitimate expectation of privacy" makes clear that such an expectation:

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

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. We first considered the nature of the material obtained and included in the programme. Mrs Edwards was shown fleetingly as she sat at a table next to her son, who was shown grasping at his neck with his hands (which we understood Mrs Edwards' son had done to indicate that it was hurting him to swallow food). Both Mrs Edwards' and her son's faces were blurred, and they were not named or otherwise identified in the programme.

It was our view that such footage, i.e. footage of a person with a family member who is in distress, could reasonably be regarded as being personal and sensitive to the people involved and therefore could attract an expectation of privacy.

However, the question of whether Mrs Edwards had a legitimate expectation of privacy with regards to the inclusion in the programme of the footage depends on all the relevant circumstances. In assessing Mrs Edwards' case, we therefore took account of the following:

- the footage had been obtained from an online trailer entitled 'Autism Team Trailer', used in a 'pitch' for a television series, which was uploaded onto the Autism Media Channel YouTube account on 9 November 2012;
- Mrs Edwards and her then 14 year-old son featured in the trailer with Mrs Edwards' consent (Mrs Edwards told Ofcom: "Dr Wakefield had my full written consent to use [the footage] within the online clip");
- Mrs Edwards' and her son's faces were shown unobscured in the trailer and they were identified by name;
- the 'Autism Team Trailer' had been viewed over 23,022 times and was still available to view publicly online at the time the programme was broadcast; and,
- the footage of the complainant and her son included in the trailer was also featured in films, including *Vaxxed*, the website of which reported that it had been seen by more than half a million people.

In these circumstances, we considered that the footage was already in the public domain, with Mrs Edwards' consent, and had been widely disseminated. However, we recognised that while Mrs Edwards had given consent to the footage being available online, she had not consented to its inclusion in the television programme complained of (though Mrs Edwards had, it appeared, consented to the material to be used in a 'pitch' for an unrelated television series). We acknowledged that material broadcast on television was likely to be more widely viewed than material uploaded to a website. However, we also took into account the fact that the footage of the complainants that was available online, with Mrs Edwards' consent, was unobscured and more substantial than that included in the programme.

The footage included of Mrs Edwards in the programme was fleeting, both her and her son's faces were blurred, and they were not identified by name or otherwise. Therefore, we also considered that Mrs Edwards would not have been identifiable to anyone who did not already know her and her son and/or had been present when the footage was filmed and/or had already seen the unobscured footage of them publicly available online.

Taking all the above factors into account, we considered that, on balance, Mrs Edwards did not have a legitimate expectation of privacy with regards to the inclusion of the footage of her in the programme. Having come to this view, it was not necessary for Ofcom to consider whether or not Mrs Edwards had given her consent for the footage to be included or whether any infringement of Mrs Edwards' privacy was warranted.

Therefore, Ofcom's decision is that there was no unwarranted infringement of Mrs Edwards' privacy in the programme as broadcast.

Mrs Edwards' son

We next considered whether Mrs Edwards' son's privacy was unwarrantably infringed in the programme as broadcast.

Again, we had regard to Practices 8.6 and 8.10.

Although Mrs Edwards' son was 14 years old at the time the footage was filmed, he was an adult at the time the programme was broadcast. However, we understood that given he was unable to communicate through speech and did not have the capacity to make decisions for himself, his parents had been appointed by the Court of Protection as joint deputies enabling them to make personal welfare decisions on their son's behalf. Given this, we also took into account Practice 8.21 which states that where a programme features an individual under sixteen or a vulnerable person⁴ in a way that infringes privacy, the appropriate consent must be obtained unless the subject matter is trivial or uncontroversial and the participation minor, or it is warranted to proceed without consent.

In considering whether or not Mrs Edwards' son's privacy was unwarrantably infringed in the programme as broadcast, Ofcom assessed the extent to which he had a legitimate expectation of privacy in relation to the particular footage of him included in the programme. 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 finds him or herself.

We assessed the nature of the material included in the programme. Mrs Edwards' son was shown in various clips from the trailer material included in the programme, including being shown: sitting next to his mother while grasping at his neck (which we understood Mrs Edwards' son had done to indicate that it was hurting him to swallow food); receiving invasive medical treatment; and, lying on a bed sucking his thumb and wearing a nappy. Mrs Edwards' son's face was blurred and he was not named or otherwise identified in the programme.

It was our view that such footage, i.e. footage of a person who is in distress, receiving invasive medical treatment, and, not fully clothed, could reasonably be regarded as being highly personal and sensitive to that person and therefore could attract an expectation of privacy.

However, as established above, the footage was already in the public domain, and had been widely disseminated. Although, we also recognised that while Mrs Edwards had given consent to the footage being available online, she had not consented to its inclusion in the television programme complained of. We acknowledged that material broadcast on

⁴ The Code's definition of a vulnerable person includes those with learning difficulties.

television was likely to be more widely viewed than material uploaded to a website. However, we also took into account the fact that the footage of the complainants that was available online, with Mrs Edwards' consent, was unobscured and more substantial than that included in the programme in question.

We also took into account that while the footage included in the programme of Mrs Edwards' son was brief, it was not so fleeting as that included of Mrs Edwards. However, given that both Mrs Edwards' and her son's faces were blurred in the footage included in the programme, and they were not identified by name or otherwise, we also considered that Mrs Edwards' son would not have been identifiable to anyone who did not already know him and his mother and/or had been present when the footage was filmed and/or had already seen the unobscured footage of them publicly available online.

Taking all the above factors into account, we also considered that, on balance, Mrs Edwards' son did not have a legitimate expectation of privacy with regards to the inclusion of the footage of him in the programme. Having come to this view, it was not necessary for Ofcom to consider whether or not Mrs Edwards had given her consent for the footage of her son to be included or whether any infringement of Mrs Edwards' son's privacy was warranted.

Therefore, Ofcom's decision is that there was no unwarranted infringement of Mrs Edwards' son's privacy in the programme as broadcast.

Ofcom has not upheld Mrs Edwards' complaint, made on her own behalf and on behalf of her son, of unwarranted infringement of privacy in the programme as broadcast.

Not Upheld

Complaint by Lidl UK GmbH *Supers shoppers, Channel 4, 6 June 2017*

Summary

Ofcom has not upheld this complaint by Lidl UK GmbH's ("Lidl") of unjust or unfair treatment in the programme as broadcast should not be upheld.

The programme included an item which examined whether supermarkets, by selling packs of branded goods with different quantities and weights, confused shoppers. One of the supermarkets referred to, Lidl, complained that it was treated unfairly in the programme and had not been given an appropriate and timely opportunity to respond.

Ofcom found that:

- The broadcaster took reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme in a way that portrayed Lidl unfairly.
- The comments made in the programme did not amount to significant allegations of wrongdoing against Lidl. Therefore, it was not necessary for the broadcaster to have provided Lidl with a specific opportunity to respond.

Programme summary

On 6 June 2017, Channel 4 broadcast an edition of *Supers shoppers*, a consumer programme that offers money-saving advice to shoppers. In one segment, the programme examined whether supermarkets, by selling packs of branded goods with different quantities and weights, confused shoppers.

Before the title sequence, the stories that would feature in the programme were briefly shown. One of the programme's two presenters, Ms Andi Osho said:

"On tonight's show, when it comes to buying big brand names in the chocolate and biscuit aisle, we reveal Lidl isn't as cheap as you think".

Various chocolate products and a Lidl store sign were shown. Ms Ratula Chakraborty of the University of East Anglia said: *"The consumer becomes less price sensitive and ends up buying on a whim"*.

Following the programme's title sequence, Ms Osho said:

"As we Supers shoppers become savvier, retailers are doing everything they can to stay one step ahead".

Ms Osho and the programme's second presenter, Ms Anna Richardson, were shown in a kitchen examining a bag of groceries. Ms Richardson commented that *"figuring out the best*

price" on supermarket multipacks "feels like you are entering the Krypton factor". Ms Richardson showed Ms Osho two multipacks of branded baked beans and explained:

"These are from Lidl. They're £2.69 for five tins...however, Asda, six tins here: £3. Which is the better value? Go!"

Ms Osho was shown attempting to work out the cost per tin of the baked beans from the two retailers through mental arithmetic. After some time undertaking the calculations she concluded: "That one is 50p per can and that one is 54p per can, which means that the Asda baked beans are the cheapest". Ms Richardson commented "That's incredible" and "Easy when you know how". Ms Osho looked directly at the camera and rolled her eyes.

In a voiceover, Ms Richardson said:

"In that case Osho, let's try your maths skills over in the sweetie aisle, comparing these four, six, nine and ten packs of Mars Bars, all with different weights".

Various multipacks of Mars Bars were shown, and Ms Richardson turned to Ms Osho and said:

"This four-pack and this nine-pack of Mars are 40g a bar. This six-pack available from Lidl: 45g a bar. If we look at the ten-pack of Mars Bars, from Asda: 34g a bar. Which is the best value for money?"

Ms Osho exclaimed "You're joking! How am I supposed to work that out?", and Ms Richardson replied, "That is my point exactly!"

In voiceover, Ms Osho said:

"To be sure it's not just us getting our knickers in a Twix, we put this confectionary conundrum to the masses".

Ms Richardson was shown in a pedestrianised area standing by a table displaying Mars Bar multipacks. On the table, four cards displayed the name of the retailer, the quantity, and price of the Mars Bar multipack. Two of these cards were shown in close-up, they said:

*"Sainsbury £2.00" for "9 x 39.4g".
"LIDL £1.89" for "6 x 45g".*

Ms Richardson asked members of the public to work out which pack from "Lidl, Asda or Sainsbury's" was best value and close-up shots of the two cards were shown again briefly, together with a card for Asda. It said:

"ASDA £2" for "10 x 33.8g".

The members of the public were shown struggling to work out which was better value on a calculator. One shopper commented the task was "confusing" and another said it would "take ages". In voiceover, Ms Richardson said:

"As suspected, they're as baffled as we are and that's because retailers can ask the manufacturers for any size and any quantity they want".

The three cards above were shown again. A further card was also shown which said:

"Asda £1.00" for "4 x 39.4g"

Ms Richardson then interviewed Ms Chakraborty about the programme's finding. The following exchange took place:

Ms Chakraborty: *"A retailer has an enormous arsenal of resources...They are researching on us consumers to really know how to seduce us."*

Ms Richardson: *So, we are confused, presumably, as consumers?*

Ms Chakraborty: *We are confused and in all of the confusion we are becoming less price sensitive and ... spending more than perhaps we should.*

Ms Richardson: *Potentially a sneaky tactic, then on behalf of the retailers?*

Ms Chakraborty: *Yes, a sneaky tactic. What happens is that the consumer becomes less price sensitive and ends up buying on a whim".*

Ms Richardson was shown again with the members of the public. In voiceover, Ms Osho asked:

"So, left dazed and confused by complicated price comparisons, who do we think delivers the best deals?"

Three members of the public were shown indicating to Ms Richardson that they thought the Lidl pack of Mars Bars was the cheapest. One shopper said they had picked Lidl as *"it's always cheaper"* and another shopper said, *"Lidl's cheaper"*. In voiceover, Ms Richardson said:

"Well, actually, it's not. When we bought this multipack from Lidl, it was the worst deal out of the lot..."

A caption said: *"LIDL 70p PER 100g"*.

Ms Richardson continued:

"...while the best value was from Sainsbury's".

A caption said: *"SAINSBURYS 56p PER 100g"*.

Ms Osho was then shown in the kitchen placing various packs of confectionery on a table. She said:

"And Supershoppers can reveal this isn't the only sweet treat that the German retailer is raking it in on. When it comes to buying big brands from the chocolate and biscuit aisle, we've discovered that often, they're not the best value at all".

Packets of branded confectionery were shown in close-up, and Ms Osho said:

"These bags of Maltesers, Minstrels and Peanut M&Ms all work out cheaper at Tesco, Asda or Sainsbury's. In fact, we checked 11 brand name packs from Lidl's confectionery and biscuit aisle and found 73% of them were cheaper if you shop with the competition".

In a voiceover, Ms Richardson asked "Lidl, how could you?" and said:

"We approached the British Retail Consortium [BRC] with our findings on multipacks. They said: 'Providing customers with clear information about the products they are purchasing is a priority consideration for our members. The points raised are all commercial issues for individual companies operating in a competitive environment'".

The quote also appeared on screen.

More confectionery was shown and in a voiceover Ms Richardson said:

"So, in other words, the big lesson here: Not everything in a discount store is actually cheaper".

There was no further reference to Lidl in the programme. Immediately before the end credits, the caption: "Prices correct as of February/April 2017" was shown.

Summary of the complaint and broadcaster's response

Lidl complained that it was treated unjustly or unfairly in the programme as broadcast because:

- a) Lidl was portrayed as using "sneaky tactics" on multipack products to confuse customers into spending more. However, Lidl said that it only sold one type of Mars Bar multipack and did not use price promotions, which ensured that consumers had certainty on its low prices.

Channel 4 said that *Supershoppers* was a series which "combines features, satire and investigative journalism" while looking at retailing, marketing, branding and the goods and services consumers buy. It said that at the heart of the series were matters of public interest and importance to consumers and, that it assisted them to shop "in a more savvy way", "lift[ing] the lid" on large brands and retailers, to help consumers get the best possible deals.

Channel 4 said that *Supershoppers* did not, as Lidl claimed, present inaccurate and unfair conclusions through the omission of material facts. It said that the fact that Lidl's Mars Bar multipacks were not on price promotion, but that some (though not all) of the other retailers' Mars Bar multipacks were on promotion, was not a material fact. Channel 4 added that it was entirely a matter of editorial discretion to omit this information. It said that around half of all grocery products are sold on a promotion at any one time, and that chocolate and biscuit brands are particularly liable to be on special offer. Therefore, Channel 4 said that "taking a snapshot is the only realistic and accurate way of making a comparison at a particular time". It added that the omission of this information from the programme was only to the advantage of the retailers, including Lidl. The broadcaster said the programme makers could have referred to the fact that some multipacks were

on promotion with a particular retailer, but not with others, at any given time. However, had the programme makers done so, they would also have been entitled to conclude that this "complication" may exacerbate the confusion and complexity faced by consumers when choosing what to buy.

Channel 4 said that the programme had not "singled out" Lidl unfairly. It said that the programme makers had "responsibly sought the views of consumers and an expert" for the programme. This included views on the question of confusion which consumers faced from the disparity in multipack weights and pricing across a number of supermarkets, not just Lidl. The broadcaster added that the reference made by the presenters to "*sneaky tactics*" was immediately preceded by a consumer price comparison test which was not targeted specifically at Lidl. Channel 4 said that, in the test, the Mars Bar multipacks from Asda, Lidl and Sainsbury's were all displayed and mentioned, and, that the members of the public, who were shown clear pricing and weight information and given a calculator, all confirmed that they were confused. Channel 4 said that one of the presenters had commented that the members of the public were "*as baffled as we are – and that's because retailers can ask the manufacturers for any size and any quantity they want*". It said that the programme then included interview footage of Ms Chakraborty, an expert in retail pricing and marketing, in which the presenter asked her if this confusion was "*Potentially a sneaky tactic then, on behalf of retailers*" [Channel 4's emphasis]. Ms Chakraborty's confirmation that it was "*a sneaky tactic*" was properly contextualised and not directed specifically at Lidl, it added. The broadcaster said that in the interview, Ms Chakraborty expressed "her expert, honest opinion about retailers generally".

Channel 4 said that viewers would have clearly understood that this was an industry-wide matter relevant to all retailers, not just Lidl. It said that: the fact of consumer confusion, the fact that retailers had significant resources, and the fact that they also conducted research on "*how to seduce us*" were all true and not matters which Lidl denied. Channel 4 also said that there was no suggestion that any of the retailers were committing any wrongdoing, breaching the law or any regulatory code in using such tactics. It said that these were all factual matters upon which Ms Chakraborty's opinion was fairly based and "an accurate description of established industry-wide practices amongst retailers".

- b) The comparison of Lidl's Mars Bar multipack to two competitors was unfair because:
- i) The competitors' products at the time of the comparison were on "price promotion". It said that based on standard prices, Lidl's was the second-best value.

Channel 4 said that the multipack comparison was done "at a point in time" to replicate realistic consumer behaviour when deciding which product to buy. It reiterated that around half of all grocery products were sold on promotion and so comparing the products at a particular point in time was the only realistic and accurate way of making a comparison. It added that there was no need to explicitly refer to price promotions in the programme because it was not a material fact and because it would not have impacted on the end result of the test conducted. Channel 4 reiterated that not including this information was to the advantage of the retailers, including Lidl, given that it would have only have served to highlight further complexity and consumer confusion".

Channel 4 said that the price comparison in the programme was “entirely fair to Lidl on the facts” as, at that time the comparison was done, “Lidl’s multipack was the worst value, not the second best”. It added that the credits at the end of the programme were clearly “date stamped” with “*prices correct as of February/April 2017*” to ensure that viewers were properly informed about the timing of the tests and the product prices. Channel 4 said that the standard prices figures Lidl had put to the programme makers had been misleading, and that in any event, they could not have been used in the programme because they were not correct at the time the comparison took place (being only correct after the programme was broadcast). It said that, nevertheless, using these figures, “Lidl would still not be the best value retailer for Mars Bar multipacks”. Therefore, Channel 4 said that it was fair and accurate on Lidl’s figures to say (as the programme did) that “*not everything in a discount store is actually cheaper*” and that “*when it comes to buying big brand names in the chocolate and biscuits aisle, Lidl isn’t as cheap as you think*”. The broadcaster said that viewers were not “misled or confused by the test conducted or the products more generally”.

- ii) The programme “rounded up” the weight of the two competitors’ products and this was not sufficiently brought to the viewers’ attention.

Channel 4 said that the presenters referred to the rounded weights in a “broad-brush” manner in a brief, light-hearted section, in which they challenged each other to calculate quickly the best value Mars Bar multipack. It said that there was nothing untoward in this or in the presenters concluding that the calculation was too hard. The broadcaster said that neither presenter stated which of the multipacks was the best or worst value. It said that, following this, members of the public were shown attempting the same challenge, but were given the full, unrounded prices and weights. The broadcaster added that those unrounded figures were clearly displayed on the tables for the members of the public and in shot for viewers to similarly assess. Channel 4 said that the rounded figures were provided to the BRC (of which Lidl was a member) in the programme makers’ “right of reply” letter of 22 May 2017 and no issue was raised with those figures in its response. It said the programme concluded that Lidl’s Mars Bar multipack was the worst value based on the full, unrounded, accurate figures as taken at that time. This approach, Channel 4 said, was not unfair to Lidl in any way.

- c) Lidl, a discount retailer, was portrayed as being hypocritical by the inclusion of statements such as: “[Lidl] *is raking it in*”; “*Lidl isn’t as cheap as you think*” and “*Lidl, how could you!*”

Channel 4 said that this language was entirely appropriate, light-hearted in delivery and appropriately couched, given the facts and opinions referred to in the programme. It said that objection to the wording “*Lidl isn’t as cheap as you think*” was misguided. It said that this wording was clearly qualified in the programme as: “*when it comes to buying big brand names in the chocolate and biscuit aisle, Lidl isn’t as cheap as you think*”. Channel 4 said this was true and based on price comparisons at the time from a number of biscuit and chocolate products, including those explicitly referred to in the programme.

Channel 4 did not accept that Lidl was portrayed in the programme as being hypocritical, nor that it amounted to a significant allegation. It said the programme stated the facts of

the matter and highlighted consumer confusion caused by the retailers “as well as the gap between consumer assumptions – that Lidl would be the best value – and the reality of the situation, namely that in the case of particular products referred to in the Programme it is not as cheap as consumers may think”. Channel 4 said given these facts, it was entirely a matter of editorial discretion for the programme to state that “*this isn't the only sweet treat the German retailer is raking it in on*”.

Channel 4 said that for the same reason the programme was entitled to question why Lidl was not the cheapest retailer by asking “*Lidl, how could you?*” given it was a discount store and promoted itself as such. It said that with or without Mars Bar multipacks, the programme fairly and accurately concluded that “*not everything in a discount store is actually cheaper*”.

- d) Lidl was not given an appropriate opportunity to respond to the “significant allegations of wrongdoing” made about it in the programme. It said that, although Channel 4 approached the BRC, the BRC gave its statement on behalf of the industry and not a particular retailer, and Lidl's own view was not fairly represented.

Channel 4 said that it refuted the existence of significant allegations of wrongdoing in *Supershoppers* for the reasons it had given under heads a) to c). It added that the facts, portrayal and opinion in the programme were presented fairly and accurately. The broadcaster said that the programme dealt with industry-wide issues that related to retailers as a whole, including a number of named retailers, not just Lidl. It said that in these circumstances, it was entirely appropriate that the programme sought comment prior to broadcast from a body acting for the retail industry – the BRC, rather than directly from each of Lidl, Asda and Sainsbury's specifically.

Channel 4 said that it did not accept that the BRC gave statements on behalf of the industry and not a particular retailer. It said “the BRC acts both for the industry and its retailer members (including Lidl, Asda and Sainsbury's) and holds itself out as doing so on its own website”.

Channel 4 said that on 22 May 2017, the programme makers sent a right of reply letter by email to the BRC so that it could respond to the evidence obtained about retailers, including its members: Asda, Sainsbury's and Lidl. The letter said that “[the programme makers] have accordingly written to the BRC directly and not each of the supermarkets/discounters mentioned above [for] a single collated response”. The broadcaster said that the BRC raised no objection to this, nor did it claim that it could not act on behalf of Lidl or address the matters raised. Channel 4 said that the BRC was at liberty to liaise with Lidl about these matters, and that the BRC was properly authorised to respond on Lidl's behalf, as indeed it did.

Channel 4 said that the right of reply letter set out the detail of the matters included in the programme, including the reference to ‘*sneaky tactics*’. Channel 4 said that the BRC responded that:

“Maintaining the trust of the customer is critical to the success of any retailer in the age of mass information. Providing customers with clear information about the products they are purchasing is a priority consideration for our members. The points raised are all commercial issues for individual companies operating in a competitive environment. There are rules governing misleading consumers and also rules

governing price indications which Trading Standards are empowered to enforce through the courts”.

Channel 4 said that response was fairly and accurately reflected in the programme and that it “sufficiently answer[ed] the matters relevant to retailers, including Lidl”. It added that the response included in the programme that “*Providing customers with clear information about the products they are purchasing is a priority consideration...*” also informed viewers how seriously the BRC and the industry, including its members like Lidl, took the matter. Channel 4 said that in these circumstances, it was satisfied that no further individual comment was required from Lidl.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that Lidl's complaint of unjust and unfair treatment in the programme as broadcast should not be upheld. Both parties 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.

In reaching this decision in this case, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript of it, and both parties' written submissions.

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”).

Ofcom recognises that broadcasters can legitimately select what information or material to include or omit in programmes and that, ultimately, it is an editorial decision for broadcaster to make prior to the broadcast of a programme. However, in exercising such editorial control over programmes, broadcasters must ensure compliance with the Code. Therefore, in considering heads a) to c) of this complaint, Ofcom had particular regard to Practice 7.9 of the Code which states that before broadcasting a factual programme, 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.

- a) Ofcom considered the complaint that Lidl was portrayed as using “sneaky tactics” on multipack products to confuse consumers and that it did not use price promotions.

As set out in the "Programme summary" section above, the programme questioned whether the selling of multipacks of branded products with different weights and quantities by supermarket retailers caused confusion among consumers. To demonstrate whether this was the case or not, the programme conducted a test in which members of the public were provided with a number of multipacks of Mars Bars from supermarkets ASDA, Lidl and Sainsbury's and asked to determine which multipack was the best value for money. The members of the public were shown struggling to work out which multipack was the better value. One of the presenters commented that she was not surprised at this "*because retailers can ask the manufacturers for any size and any quantity they want*". Following this, the presenter was shown in interview with Ms Chakraborty about the techniques used by supermarket retailers in their pricing of multipacks.

Having carefully watched the programme and taken particular account of what was said by the presenter and Ms Chakraborty, it was clear to Ofcom that viewers would have understood that the focus of the programme was the perceived confusion the multipack pricing caused to consumers and that, as a result, consumers were becoming less sensitive to pricing. The presenter's and Ms Chakraborty's reference "*sneaky tactic[s]*" was made in this context. In Ofcom's view, it was an expression of personal opinion based on the programme's test with members of the public. Therefore, Ofcom considered that it was clear to viewers that the references were made about "*retailers*", generally, and not just Lidl.

We also took into account that towards the end of the programme, a summary of a statement from the BRC, the representative body for the supermarket retail industry, was included which made it clear to viewers that providing customers with clear pricing information was "*a priority consideration*" for its members and that the methods highlighted in the programme were "*commercial issues*" for the retailers "*operating in a competitive environment*". In Ofcom's view, the inclusion of the BRC's statement along with the comments made by the presenter and Ms Chakraborty on the tactics used by retailers, provided viewers with balance of opinion sufficient to enable them to make their own minds up as to whether the tactic used amounted to being "*sneaky*" or whether it was a common industry-wide practice. Given the factors above, Ofcom considered that the comments made by the presenter and Ms Chakraborty about the techniques used by supermarket retailers in pricing multipack products were unlikely to materially and adversely affect viewers opinion of Lidl in a way that was unfair.

- b) Ofcom considered the complaint that the programme was unfair to Lidl in its comparison of its Mars Bar multipack because: i) the ASDA and Sainsbury's products were on a price promotion at the time of the comparison and that based on standard prices Lidl was "*second best value*"; and, ii) the weight of the ASDA and Sainsbury's products were "*rounded up*" and this was not brought to the viewers' attention.
 - i) We recognised that price comparisons of various similar products are an established method used in programmes of this genre. However, broadcasters must ensure that, when broadcasting price comparisons in consumer interest programmes, the content is sufficiently accurate to avoid unfairness.

While we recognise that Lidl may have preferred the programme to have referred to its product as not being on a price promotion, Ofcom considered that it was not incumbent on the programme makers to have compared standard prices in the

programme. As already mentioned above, Ofcom considered that the focus of the programme was the apparent confusion the pricing of branded multipack products by supermarket retailers caused consumers. To demonstrate this, the programme used price comparisons on a range of confectionary products, including multipacks of Mars Bars, making clear in the programme that the comparison of prices was made at a particular "point in time" (i.e. "*February/April 2017*"). We also took account of Channel 4's statement that conducting a price comparison at a particular point in time replicated "realistic consumer behaviour" when choosing which product was best value. Therefore, given the context in which the price comparison was conducted, we considered that it presented to viewers sufficiently accurate information on the comparison undertaken in a "realistic" setting. We did not consider the fact that Lidl's product was a "standard price" rather than a "price promotion" (as the other two products apparently were) a factor that, in itself, would have led viewers to perceive the comparison test result unfair to Lidl.

- ii) Again, we considered that when presenting information in programmes, broadcasters must ensure that content is sufficiently accurate to avoid unfairness.

As detailed in the "Programme summary" above, when introducing the Mars Bar multipack comparison part of the programme, one of the presenters, Ms Richardson posed the following question to the other presenter, Ms Osho:

"This four-pack and this nine-pack of Mars are 40g a bar. This six-pack available from Lidl: 45g a bar. If we look at the ten-pack of Mars Bars, from Asda: 34g a bar. Which is the best value for money?"

Ms Osho responded "*You're joking! How am I supposed to work that out?*", and Ms Richardson replied, "*That is my point exactly!*". Immediately following this exchange between the presenters, Ms Richardson was then shown standing near a table with Mars Bar multipacks being compared on display. The following three cards were also shown on the display: "*Sainsbury £2.00*" for "*9 x 39.4g*"; "*LIDL £1.89*" for "*6 x 45g*"; and, "*ASDA £2*" for "*10 x 33.8g*".

While the presenters did "round up" the weights of the multipacks offered by ASDA and Sainsbury's in their introduction to the comparison test, this was done, in our view, not to mislead viewers, but to convey in a simplified manner the nature of the comparison test and the figures the members of the public would be asked to use in calculating which of the multipacks was the best value for money. Ofcom considered that when the comparison test was then shown in the programme, the accurate weights of the Sainsbury's and ASDA multipacks were clearly displayed for viewers to see.

Given these factors, Ofcom considered that viewers were given sufficiently accurate information in the programme as to the quantity and weights of the multipacks subject to the comparison test. In our view, viewers' opinion of the Lidl was unlikely to have been materially and adversely affected by the rounding up of the weights by the presenters in introducing the comparison test. It was clear from the presentation in the programme that the test had been conducted using the exact weights and that the result was based on a comparison of those exact weights and quantities.

Therefore, Ofcom considered that there was no unfairness to Lidl in this regard.

- c) Ofcom next considered the complaint that Lidl, a discount retailer, was portrayed as being hypocritical.

As mentioned above, the focus of the programme was the perceived confusion the multipack pricing caused to consumers and that, as a result, consumers were becoming less sensitive to pricing. The programme included the comparison of a number of other branded confectionary packs in addition to the Mars Bar example. The programme also clearly stated that the price comparisons were made between a specific period of time (namely, "*February/April 2017*").

The results of the price comparisons conducted by the programme makers and included in the programme indicated that Lidl, a discount supermarket retailer, often did not offer branded confectionary of as good value as the other supermarket retailers included in the tests. It was in this context, Ofcom considered, that the presenters' comments relating to Lidl not being "*as cheap as you think*", and similar comments about its status as a discount retailer, were made. This was also demonstrated by the members of the public involved in the comparison test who were shown incorrectly guessing that the Lidl Mars bars would be the best value.

In our view, the presenters' comments such as "*Lidl, how could you?*" and "*...this isn't the only sweet treat that the German retailer is raking it in on...*" reflected their "surprise" that the recognised discount retailer was, in some cases, more expensive for confectionary than other supermarket retailers. However, we considered that these comments were delivered with mock incredulity which was in keeping with the light-hearted tone of the programme. We also considered that the programme made clear to viewers that the results of the comparison tests were limited to a number of "*big brand names*" in the confectionary aisle and were not comments made as a broader criticism of the pricing of all products sold by the retailer.

Therefore, given the factors above, Ofcom considered that the comments made by the presenters were unlikely to materially and adversely affect viewers opinion of Lidl in a way that was unfair.

We recognised that the programme was a consumer programme which, Channel 4 said, "combines features, satire and investigative journalism". We acknowledged that the programme's content was presented in a fast-paced and humorous style – a format to which viewers were likely to be accustomed. However, when dealing with complex issues in this way, broadcasters should be aware of the risk that this type of stylistic approach could create an unfavourable impression or inference. This could potentially be unfair to the person or organisation featured.

Having considered heads a) to c) of the complaint, and taken into account the context of the programme as a whole, Ofcom was satisfied that, in this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme as broadcast in a way that portrayed Lidl unfairly.

- d) Ofcom considered Lidl's complaint that it was not given an appropriate opportunity to respond to the "significant allegations of wrongdoing" made about it in the programme.

In considering this head of complaint, we had particular regard to Practice 7.11 which states that 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.

Again, Ofcom took into account the comments made in the programme by the presenters and Ms Chakraborty as set out in the "Programme summary" above. Ofcom considered whether their comments about Lidl and the price comparison test carried out for the programme could reasonably be regarded as "significant allegations of wrongdoing" that required the broadcaster to provide the company with an opportunity to respond.

In our view, the comments made in the programme were expressions of the personal opinion by Ms Chakraborty and the presenters which were borne out of their understanding of the price comparison tests carried out by the programme and the "confusion" multipack pricing techniques appeared to cause consumers. We also took the view that viewers were likely to have recognised that the programme was intended to be light-hearted in its presentation style and that the presenters' comments about Lidl would be unlikely to have been taken by viewers as a serious criticism of it and its multipack pricing.

Ofcom appreciated that Lidl believed that the response by the BRC was not one which provided a response from a particular retailer, such as Lidl, to the matters included in the programme. However, in our opinion, the programme did not allege wrongdoing or make other significant allegations about Lidl or any of the other supermarket retailers mentioned in the programme. Therefore, it was not incumbent on the broadcaster to have sought specific responses from those retailers, including Lidl, in order to avoid unfairness to them.

In any event, Ofcom considered that given that the focus of the programme was on the apparent confusion caused by multipack pricing techniques used by supermarket retailers generally, a response was sought from the representative body of supermarket retailers, the BRC, which was summarised and represented in the programme. We considered that the summary was in a manner that conveyed to viewers that none of the retailers referred to in the programme were doing anything wrong.

Therefore, Ofcom considered that there was no unfairness to Lidl in this regard.

Ofcom has not upheld Lidl's complaint of unjust or unfair treatment in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 15 and 28 January 2018 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
Horror Channel "Bloody British Season" (trailer)	CBS Reality	03/11/2017	Violence
First Dates	Channel 4	02/10/2017	Transgender discrimination/offence
In the Shade of the Scholars	Peace TV	12/09/2017	Gender discrimination/offence

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 15 and 28 January 2018 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
100% Super Hits	4Music	26/01/2018	Generally accepted standards	1
Home and Away	5Star	19/01/2018	Generally accepted standards	1
The Christian O'Connell Breakfast Show	Absolute Radio	12/01/2018	Generally accepted standards	1
Charlie and the Alphabet	Baby TV	17/01/2018	Other	1
Herbie Wilson	Belfast FM	05/01/2018	Fairness	1
BDO World Darts Championship	BT Sport 1	09/01/2018	Drugs, smoking, solvents or alcohol	1
The Big Noise	CamFM 97.2	03/01/2018	Offensive language	1
Pointless	Challenge	21/01/2018	Animal welfare	1
All4 Drama Box Sets (trailer)	Channel 4	26/01/2018	Offensive language	1
Channel 4 News	Channel 4	03/01/2018	Due impartiality/bias	6
Channel 4 News	Channel 4	04/01/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	12/01/2018	Offensive language	4
Channel 4 News	Channel 4	15/01/2018	Offensive language	3
Channel 4 News	Channel 4	22/01/2018	Generally accepted standards	1
Come Dine With Me	Channel 4	08/01/2018	Race discrimination/offence	1
Derry Girls	Channel 4	04/01/2018	Generally accepted standards	1
Derry Girls	Channel 4	04/01/2018	Race discrimination/offence	2
Frasier	Channel 4	19/01/2018	Advertising/editorial distinction	1
Gala Bingo's sponsorship of Countdown	Channel 4	04/01/2018	Sponsorship	1
Hollyoaks	Channel 4	17/01/2018	Generally accepted standards	1
How to Lose Weight Well	Channel 4	08/01/2018	Dangerous behaviour	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
How to Lose Weight Well	Channel 4	08/01/2018	Materially misleading	1
Hunted	Channel 4	11/01/2018	Dangerous behaviour	1
Hunted	Channel 4	11/01/2018	Generally accepted standards	6
Hunted	Channel 4	18/01/2018	Product placement	1
Kiri	Channel 4	10/01/2018	Crime and disorder	1
Kiri	Channel 4	10/01/2018	Generally accepted standards	1
Kiri	Channel 4	17/01/2018	Outside of remit	2
Kiri	Channel 4	24/01/2018	Offensive language	1
Kirstie and Phil's Love It or List It	Channel 4	24/01/2018	Offensive language	1
Naked Attraction	Channel 4	09/01/2018	Nudity	1
Posh Pawn	Channel 4	23/01/2018	Gender discrimination/offence	1
SAS: Who Dares Wins	Channel 4	07/01/2018	Gender discrimination/offence	1
The Net	Channel 4	28/12/2017	Violence	1
Blind Date	Channel 5	20/01/2018	Sexual material	1
Celebrity Big Brother	Channel 5	06/01/2018	Generally accepted standards	1
Celebrity Big Brother	Channel 5	08/01/2018	Race discrimination/offence	8
Celebrity Big Brother	Channel 5	08/01/2018	Transgender discrimination/offence	1
Celebrity Big Brother	Channel 5	09/01/2018	Generally accepted standards	1
Celebrity Big Brother	Channel 5	09/01/2018	Transgender discrimination/offence	1
Celebrity Big Brother	Channel 5	11/01/2018	Generally accepted standards	1
Celebrity Big Brother	Channel 5	11/01/2018	Race discrimination/offence	1
Celebrity Big Brother	Channel 5	12/01/2018	Generally accepted standards	1
Celebrity Big Brother	Channel 5	12/01/2018	Nudity	2
Celebrity Big Brother	Channel 5	14/01/2018	Generally accepted standards	3
Celebrity Big Brother	Channel 5	15/01/2018	Under 18s in programmes	1
Celebrity Big Brother	Channel 5	16/01/2018	Generally accepted standards	1
Donny Osmond's Easy Listening Christmas	Channel 5	21/12/2017	Disability discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Jane and Friends at Christmas	Channel 5	23/12/2017	Sexual material	1
More Kids Than Cash	Channel 5	18/01/2018	Animal welfare	1
Mrs Caldicot's Cabbage War	Channel 5	01/01/2018	Scheduling	1
Not So Sweet Sixteen	Channel 5	08/01/2018	Drugs, smoking, solvents or alcohol	1
Programming	Channel 5	Various	Other	1
Starting Up, Starting Over	Channel 5	03/01/2018	Offensive language	2
The Wright Stuff	Channel 5	12/01/2018	Due impartiality/bias	1
Wishfart	CITV	09/01/2018	Offensive language	1
Wishfart	CITV	15/01/2018	Offensive language	1
CNN News	CNN	13/01/2018	Offensive language	1
Live at the Apollo	Comedy Central	26/12/2017	Sexual orientation discrimination/offence	1
Advertisement	Comedy Central Extra	20/12/2017	Advertising minutage	1
Yianni: Supercar Customiser	Dave	10/01/2018	Crime and disorder	1
Toddlers and Tiaras	Discovery Home and Health +1	19/01/2018	Under 18s in programmes	1
Celebrity Crystal Maze	E4	12/01/2018	Disability discrimination/offence	1
Titanic	E4	07/01/2018	Offensive language	1
Only Fools and Horses	Gold	21/01/2018	Generally accepted standards	1
Heart Breakfast with James and Becky	Heart FM (Kent)	08/01/2018	Gender discrimination/offence	1
Heart Breakfast with Ivan and Emma	Heart FM (Northampton)	22/12/2017	Disability discrimination/offence	1
Programming	Heritage Radio Manchester	Various	Hatred and abuse	1
Wes Craven Horror Season (trailer)	Horror Channel	09/01/2018	Scheduling	1
Britain's Favourite Dogs: Top 100	ITV	16/01/2018	Other	1
Britain's Favourite Dogs: Top 100	ITV	16/01/2018	Violence	4
Casino Royale	ITV	31/12/2017	Sexual material	1
Celebrity Juice (trailer)	ITV	03/12/2017	Sexual material	1
Coronation Street	ITV	25/12/2017	Violence	1
Coronation Street	ITV	03/01/2018	Violence	1
Coronation Street	ITV	12/01/2018	Gender discrimination/offence	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Coronation Street	ITV	12/01/2018	Generally accepted standards	1
Coronation Street	ITV	17/01/2018	Generally accepted standards	1
Coronation Street	ITV	19/01/2018	Disability discrimination/offence	3
Coronation Street	ITV	Various	Violence	14
Dancing on Ice	ITV	07/01/2018	Generally accepted standards	2
Dancing on Ice	ITV	07/01/2018	Materially misleading	1
Dancing on Ice	ITV	07/01/2018	Nudity	1
Dancing on Ice	ITV	07/01/2018	Offensive language	4
Dancing on Ice	ITV	07/01/2018	Sexual material	2
Death Becomes Her	ITV	14/01/2018	Violence	2
Dickinson's Real Deal	ITV	17/01/2018	Competitions	1
Emmerdale	ITV	03/01/2018	Generally accepted standards	1
Emmerdale	ITV	03/01/2018	Information/Warnings	1
Emmerdale	ITV	03/01/2018	Violence	3
Emmerdale	ITV	05/01/2018	Generally accepted standards	2
Emmerdale	ITV	09/01/2018	Generally accepted standards	1
Emmerdale	ITV	10/01/2018	Violence	2
Emmerdale	ITV	11/01/2018	Violence	1
Girlfriends	ITV	17/01/2018	Animal welfare	26
Girlfriends (trailers) Lethal Weapon (trailer) Next of Kin (trailer) Transformation Street (trailer) Vera (trailer)	ITV	07/01/2018	Scheduling	1
Good Morning Britain	ITV	05/12/2017	Materially misleading	4
Good Morning Britain	ITV	09/01/2018	Disability discrimination/offence	1
Good Morning Britain	ITV	09/01/2018	Generally accepted standards	1
Good Morning Britain	ITV	12/01/2018	Generally accepted standards	1
Good Morning Britain	ITV	17/01/2018	Due impartiality/bias	1
Good Morning Britain	ITV	17/01/2018	Generally accepted standards	2
Good Morning Britain	ITV	23/01/2018	Due impartiality/bias	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Good Morning Britain	ITV	23/01/2018	Generally accepted standards	4
Good Morning Britain	ITV	23/01/2018	Violence	1
Gordon, Gino and Fred's Great Christmas Roast	ITV	21/12/2017	Generally accepted standards	1
Ibiza Reps (trailer) Release the Hounds (trailer)	ITV	07/01/2018	Scheduling	1
Ibiza Weekender (trailer)	ITV	14/01/2018	Sexual material	1
ITV News	ITV	28/12/2017	Violence	1
ITV News	ITV	17/01/2018	Due accuracy	1
ITV News	ITV	18/01/2018	Generally accepted standards	1
ITV News	ITV	23/01/2018	Race discrimination/offence	1
ITV Racing Live	ITV	26/12/2017	Drugs, smoking, solvents or alcohol	1
Loose Women	ITV	08/01/2018	Generally accepted standards	1
Loose Women	ITV	16/01/2018	Violence	1
Next of Kin	ITV	15/01/2018	Materially misleading	1
Party Political Broadcast by the Labour Party	ITV	17/01/2018	Generally accepted standards	1
Peston on Sunday	ITV	12/01/2018	Outside of remit	1
Programming	ITV	10/01/2018	Violence	1
Release the Hounds (trailer)	ITV	17/01/2018	Animal welfare	1
Survival of the Fittest (trailer)	ITV	06/01/2018	Sexual material	1
The Jeremy Kyle Show	ITV	03/01/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	16/01/2018	Sexual material	1
The National Television Awards	ITV	23/01/2018	Other	1
The Voice UK	ITV	06/01/2018	Charity appeals	5
The Voice UK	ITV	13/01/2018	Other	1
This Morning	ITV	16/01/2018	Other	1
This Morning	ITV	17/01/2018	Competitions	1
This Morning	ITV	17/01/2018	Harm	1
This Morning	ITV	22/01/2018	Generally accepted standards	1
This Morning	ITV	22/01/2018	Sexual material	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
This Morning	ITV	23/01/2018	Generally accepted standards	1
This Morning	ITV	24/01/2018	Drugs, smoking, solvents or alcohol	2
Through the Keyhole	ITV	20/01/2018	Animal welfare	20
Tipping Point	ITV	16/01/2018	Materially misleading	1
Toyota's sponsorship of ITV movies	ITV	24/12/2017	Sponsorship credits	1
Wishfart	ITV	14/01/2018	Offensive language	1
ITV News London	ITV London	13/01/2018	Other	1
ITV News London	ITV London	15/01/2018	Due accuracy	3
Release the Hounds	ITV2	25/01/2018	Animal welfare	1
Survival of the Fittest (trailer)	ITV2	06/01/2018	Sexual material	1
The Jeremy Kyle Show	ITV2	03/01/2018	Advertising placement	1
You've Been Framed	ITV2	18/01/2018	Gender discrimination/offence	1
Heartbeat	ITV3	18/01/2018	Other	1
Specsavers Audiologists' sponsorship of ITV3 Mornings	ITV3	13/01/2018	Sponsorship	1
118 118's sponsorship of ITV Movies	ITV4	28/12/2017	Sponsorship credits	1
ITV Racing	ITV4	06/01/2018	Violence	1
Botched by Nature	ITVBe	07/01/2018	Disability discrimination/offence	1
Botched	Kanal 11	01/01/2018	Gender discrimination/offence	1
Botched	Kanal 11	03/01/2018	Gender discrimination/offence	1
Plastikturisterna	Kanal 11	09/01/2018	Gender discrimination/offence	1
Våra Pinsamma Kroppar	Kanal 11	28/11/2017	Gender discrimination/offence	1
Polisskolan (Police Academy)	Kanal 5 (Sweden)	15/01/2018	Gender discrimination/offence	1
Programming	Kiss Me TV	06/01/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	22/12/2017	Generally accepted standards	1
Nick Ferrari	LBC 97.3 FM	04/12/2017	Materially misleading	1
Steve Allen	LBC 97.3 FM	11/01/2018	Materially misleading	1
Embarrassing Bodies	London Live	03/01/2018	Sexual material	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Alan Robson's Night Owls	Metro Radio	27/12/2017	Gender discrimination/offence	1
Alan Robson's Night Owls	Metro Radio	14/01/2018	Gender discrimination/offence	1
Catfish	MTV	10/01/2018	Offensive language	1
Geordie Shore	MTV	09/01/2018	Drugs, smoking, solvents or alcohol	4
Monkeys Make You Laugh Out Loud	My5	23/12/2017	Offensive language	1
Programming	n/a	Various	Religious/Beliefs discrimination/offence	1
Every Number 1 of the 80s	Now 80s	14/01/2018	Materially misleading	1
Goblin Works Garage	Quest	11/01/2018	Generally accepted standards	1
Radio Jackie News	Radio Jackie	07/01/2018	Generally accepted standards	1
News	RT	13/01/2018	Due impartiality/bias	1
Prosiect Z	S4C	09/01/2018	Scheduling	1
A Plastic Voyage	Sky News	13/01/2018	Offensive language	1
Sky News	Sky News	05/12/2017	Due impartiality/bias	1
Sky News	Sky News	26/12/2017	Due impartiality/bias	1
Sky News	Sky News	27/12/2017	Due impartiality/bias	1
Sky News	Sky News	01/01/2018	Race discrimination/offence	1
Sky News	Sky News	06/01/2018	Other	1
Sky News	Sky News	12/01/2018	Offensive language	20
Sky News	Sky News	17/01/2018	Animal welfare	1
Sky News	Sky News	22/01/2018	Crime and disorder	2
Sky News	Sky News	23/01/2018	Due impartiality/bias	1
Sky News Tonight	Sky News	15/01/2018	Offensive language	2
Sunrise	Sky News	18/01/2018	Due accuracy	1
Scottish Football	Sky Sports Football	30/12/2017	Offensive language	1
Sky Store (trailer)	Sky1	14/01/2018	Scheduling	1
Sky Store (trailer)	Sky1	19/01/2018	Scheduling	1
Sky Store (trailer)	Sky1	23/01/2018	Scheduling	1
The Simpsons	Sky1	14/01/2018	Sexual material	1
Suhaag	Sony Max	18/01/2018	Offensive language	1
Caught in the Act: Shoplifter Showdown	Spike	15/01/2018	Offensive language	1
Fights, Camera, Action!	Spike	11/01/2018	Violence	1
Programming	Takbeer TV	Various	Other	1
News	Talksport	09/01/2018	Other	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Two Mikes	Talksport	07/01/2018	Generally accepted standards	1
The Warm up with Max Rushden	Talksport	17/12/2017	Commercial communications on radio	1
Gypsy Bride US	TLC	17/01/2018	Offensive language	1
Hitman	TV6 (Sweden)	07/01/2018	Gender discrimination/offence	1
Father Brown	TV8 (Sweden)	07/01/2018	Advertising placement	1
Morden i Midsomer	TV8 (Sweden)	06/01/2018	Advertising placement	1
Alim Online Istikhara	Venus TV	08/04/2017	Materially misleading	1
Ishtikhara online	Venus TV	08/08/2017	Materially misleading	1
Norani Istikhara	Venus TV	30/06/2017	Participation TV - Psychic material	1
Roohani Alim Online	Venus TV	04/07/2017	Participation TV - Harm	1
Hunting Down the Nazis	Yesterday	06/01/2018	Materially misleading	1
Murder Maps: The Acid Bath Murders	Yesterday	06/01/2018	Materially misleading	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	12/09/2017	Due impartiality/bias	1
Reporting Scotland	BBC 1 Scotland	24/08/2017	Due impartiality/bias	1
BBC Proms	BBC 2	16/07/2017	Due impartiality/bias	1
Gay Britannia Season	BBC 2	Various	Generally accepted standards	1
The Chillenden Murders	BBC 2	06/06/2017	Materially misleading	1
The Life Scientific	BBC Radio 4	14/02/2017	Generally accepted standards	1
Today	BBC Radio 4	20/06/2017	Materially misleading	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

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

Licensee	Licensed service	Categories
ALL Arts & Media Ltd	ALL FM	Key Commitments
Proper Community Media (Lancaster) Limited	Beyond Radio	Key Commitments

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 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	4Seven	19/01/2018	Advertising content	1
Advertisement	Absolute Radio	14/01/2018	Advertising content	1
Advertisement	BT Sport 1	14/01/2018	Advertising content	2
Advertisement	Capital FM	26/01/2018	Advertising content	1
Advertisement	Channel 5	22/01/2018	Advertising content	1
Advertisement	Comedy Central Extra	25/01/2018	Advertising content	1
Advertisement	ITV	13/01/2018	Advertising content	1
Advertisement	ITV	20/01/2018	Advertising content	4
The Voice UK	ITV	06/01/2018	Competitions	1
Advertisement	ITV /Channel 4	17/01/2018	Advertising content	1
Advertisement	ITV2	18/01/2018	Advertising content	1
Advertisement	ITV4	04/01/2018	Advertising content	1
Advertisement	JewelleryMaker	10/01/2018	Advertising content	1
Advertisement	n/a	12/12/2017	Advertising content	1
Advertisement	n/a	01/01/2018	Advertising content	1
Advertisement	North Norfolk Radio	16/01/2018	Advertising content	1
Advertisement	Tru TV	15/01/2018	Advertising content	1
Advertisement	UTV	07/01/2018	Advertising content	1

BBC First

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

Under the BBC Agreement, 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 'BBC First' approach).

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
300 Years of French and Saunders	BBC 1	25/12/2017	Sexual orientation discrimination/offence	1
BBC News	BBC 1	09/01/2018	Due accuracy	1
BBC News	BBC 1	25/01/2018	Due impartiality/bias	1
BBC News update	BBC 1	23/01/2018	Violence	1
Chinese Burn	BBC 1	16/09/1990	Race discrimination/offence	1
EastEnders	BBC 1	21/12/2017	Violence	1
EastEnders	BBC 1	12/01/2018	Race discrimination/offence	1
EastEnders	BBC 1	24/01/2018	Sexual orientation discrimination/offence	1
Hard Sun	BBC 1	06/01/2018	Offensive language	1
McMafia	BBC 1	01/01/2018	Materially misleading	1
McMafia	BBC 1	01/01/2018	Offensive language	1
Mrs. Brown's Boys	BBC 1	Various	Offensive language	1
Party Political Broadcast by the Conservative Party	BBC 1	10/01/2018	Due impartiality/bias	1
Party Political Broadcast by the Labour Party	BBC 1	17/01/2018	Due impartiality/bias	2
The Andrew Marr Show	BBC 1	17/12/2017	Due impartiality/bias	1
Look East	BBC 1 East	23/01/2018	Sexual material	1
Frankie Boyle's New World Order	BBC 2	29/12/2017	Due impartiality/bias	1
Live at the Apollo	BBC 2	07/12/2017	Generally accepted standards	1
The Daily Politics	BBC 2	17/10/2017	Due impartiality/bias	1
The Mash Report	BBC 2	18/01/2018	Generally accepted standards	2
5 Live Breakfast	BBC 5 Live Radio	03/01/2018	Due impartiality/bias	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Beauty Queen and Single	BBC iPlayer	16/01/2018	Crime and disorder	1
Chinese Burn	BBC iPlayer	25/12/2017	Race discrimination/offence	1
Chinese Burn	BBC iPlayer	26/01/2018	Race discrimination/offence	1
BBC News	BBC News Channel	23/01/2018	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	25/01/2017	Generally accepted standards	1
The News Quiz	BBC Radio 4	13/01/2018	Due impartiality/bias	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 15 and 28 January 2018.

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

Programme	Service	Transmission date
One Night with My Ex	Channel 5	2 January 2018
Advertising minutage	Freesports	Various
Advertising minutage	NTV Europe	Various
Q Breakfast Show	Q Radio Belfast	9 November 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
Can't Pay? We'll Take it Away	Channel 5	13 September 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	Licensed Service
Connect Radio Ltd	Connect FM
Proper Community Media (Lancaster) Limited	Beyond Radio

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