

OFCOM BROADCAST AND ON DEMAND BULLETIN

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Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

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

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description

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.

relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

It is Ofcom's policy to describe fully television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.

Broadcast Standards cases

In Breach

Afternoon Drive Show

Big City Radio, 29 June 2018, 15:15

Introduction

Big City Radio is a community radio station serving Aston. It broadcasts music and speech programmes. The licence for this service is held by Big City Radio CIC ("Big City Radio" or "the Licensee").

Ofcom received a complaint about the broadcast of offensive language during the *Afternoon Drive Show*. There were two instances of the word "*fucking*" during the broadcast of the song *I Can't Quit* by The Vaccines.

We considered this raised potential issues under the following rules of the Code:

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

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

We therefore requested comments from the Licensee about how the content complied with these rules.

Response

The Licensee said that the song in question was played as a result of a request from a listener, and was not part of its playlist. The Licensee added that the trainee who was running the programme believed the song had been cleared for compliance, and that he did not notice that the song contained explicit language while it was being played.

The Licensee explained that it was currently considering using a "delay unit", and that it had introduced a rule whereby "no records are to be substituted for those on the playlist". It concluded by saying that it was looking to introduce training, "to [ensure] this does not happen again".

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. Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

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

Rule 1.14

This rule states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening.

The song included two uses of the word "fucking". Ofcom's 2016 research² on offensive language clearly indicates that this word is considered by audiences to be among the strongest examples of offensive language.

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

"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".

We therefore considered that the use of the word "fucking" at 15:15 on a Friday during school term time in this case was an example of the most offensive language being broadcast at a time when children were particularly likely to have been listening.

Ofcom's Decision is that the broadcast was in breach of Rule 1.14.

Rule 2.3

This rule requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes, for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast and the likely size and composition of the potential audience and the likely expectation of the audience.

As outlined above, Ofcom's research on offensive language indicates that the word "fucking" is considered by audiences to be among the most offensive language. Therefore, the use of the word in this case clearly had the potential to cause offence to listeners.

Ofcom therefore considered whether the content was justified by the context.

Our guidance on offensive language in radio states that: "In reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast". In our view, the majority of listeners of a local community radio station playing a broad range of speech and music would be unlikely to expect programmes to contain the most offensive language at the time this song was broadcast.

We took into account that Licensee's comments and the steps it had taken to prevent a recurrence of this issue. However, Ofcom's Decision is that this broadcast also breached Rule 2.3.

Breaches of Rules 1.14 and 2.3

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

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

In Breach

Teleshopping content

Starz, 11 March 2018, 14:30

Introduction

Starz is a UK satellite television channel which broadcasts music videos alongside texts and photographs submitted by viewers. At the time of broadcast, the licence for Starz was held by CSC Media Group Limited ("CSC") which provided initial representations in this case and is a subsidiary of Columbia Pictures Corporation Limited (part of the Sony Pictures Entertainment Group) ("Columbia Pictures" or "the Licensee"). The licence is currently held by Columbia Pictures which provided representations on the Preliminary View in this case.

Although the channel is an editorial service, the text and photo elements of the channel are classified as 'Participation TV'¹ by Ofcom because these elements are predicated on the use of premium rate telephony services – the channel invites viewers to pay to contact it with a view to selecting videos and/or getting their messages and photographs on screen.

These interactive elements are subject to the requirements of the BCAP Code: The UK Code of Broadcast Advertising ("the BCAP Code")². For most matters the BCAP Code is enforced by the Advertising Standards Authority. Ofcom, however, is responsible for enforcing the rules for certain types of advertising, including Participation TV³.

Ofcom received two complaints that a picture a viewer had submitted for broadcast on Starz was an anti-Semitic cartoon caricature of a Jewish person, which conformed to racist stereotypes.

The content as broadcast featured music videos, while texts and photographs sent in by viewers were shown scrolling down the screen beside the music videos. In this case, an image submitted by a viewer was shown, which depicted a cartoon caricature of a man wearing what appeared to be a prayer shawl (or "tallit") which was decorated with a blue Star of David and blue and white stripes. The man was caricatured as having a large hooked nose and drooping eyelids. Set against a backdrop of gold coins, he was smiling widely and had his hands flat against his cheeks framing his open mouth. This image was shown 22 times from 14:30 to 15:21 (51 minutes) for brief periods of 10 to 30 seconds at a time, in rotation with photographs submitted by other viewers. These were personal photographs of adults, children and pets. In total the image was shown for 7 minutes and 5 seconds.

¹ Participation TV is defined as "long form television advertising for direct response, remote entertainment services that typically include the possibility of interacting with the broadcast content". See paragraph (n) of the introduction to the [BCAP Code](#). Examples of Participation TV include on-screen quizzes, chats and message boards. See paragraphs 3.19 to 3.24 of Ofcom's June 2010 Statement "[Participation TV: Regulatory Statement](#)".

² See: [The BCAP Code, The UK Code of Broadcast Advertising](#)

³ In June 2010, Ofcom published a [Statement](#) confirming that Participation TV services predicated on the use of PRS would be regulated by Ofcom.

At 15:45 Starz broadcast an apology in the form of an on-screen text message which read *"STZ sorry if any pics or messages caused offence guys!"*. This scrolled down the screen for 2 minutes and 50 seconds.

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

- Rule 1.2: "Advertisements must be prepared with a sense of responsibility to the audience and to society".
- Rule 4.2: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".
- Rule 4.8: "Advertisements must not condone or encourage harmful discriminatory behaviour or treatment. Advertisements must not prejudice respect for human dignity".

Ofcom requested the Licensee's comments on how the content complied with these rules.

Response

Initial representations by CSC Media Group Limited ("CSC")

CSC said it "does not accept or tolerate any form of discrimination and actively encourages inclusion and acceptance of all", adding that it had accidentally broadcast the picture due to human error. It "profoundly apologise[d] for any harm or distress caused".

CSC said that individually trained Moderators review each text message and image submitted by viewers and only those they approve are broadcast on Starz. Further, a Moderator Manager reviews all images (both rejected and approved) on a daily basis, and all Moderators have access to guide documents and a clear escalation path if they are unsure of any image, as well as an on-call management team.

CSC said it had launched an internal, high-priority investigation as soon as it learnt of the error. It said a Moderator had been unsure what the image in this case was but did not refer to guidance or follow the internal escalation policy. It said that, therefore, "the appropriate disciplinary process is underway". CSC said it had broadcast the image at 14:30 and, following a viewer complaint, deleted it at 15:35 and had broadcast an apology at 15:45.

CSC said "the viewer who submitted the offending image has...been permanently banned from the channel". It added that it had reviewed and was implementing changes to its procedures to ensure that no offensive images are broadcast again.

Representations on the Preliminary View by Columbia Pictures Corporation Limited ("Columbia Pictures" or "the Licensee")

The Licensee also requested the opportunity to make oral representations on Ofcom's preliminary view in this case. Columbia Pictures apologised for this incident and said it did not contest that this content had breached Rules 1.2, 4.2 and 4.8 of the BCAP Code. It added that the breaches had arisen out of "human error on the part of one of our Moderators and not in compliance with our procedures".

However, the Licensee said that it had “sufficient and appropriate” monitoring systems in place. It added that: “All texts and images are monitored and no image is ever published without it having been approved by a moderator”; each day it received about 200 images of which its Moderators rejected on average of 30 for various reasons (such as swearing, nudity, and appearance of illegal activity); and that since November 2016 it had rejected more than 18,000 images submitted by audience members. The Licensee said that the potential of images to offend could sometimes be “obvious” and other times this required a “degree of human judgement built on knowledge of current or past events and world affairs”.

The Licensee said the following in relation to its compliance team for Starz:

- it has six individually trained Moderators, one Senior Moderator and a Moderator Manager;
- one Moderator at a time covers the live broadcast, monitoring each text message and image submitted by viewers, and only those they approve are broadcast;
- the compliance team complies all the music video content before broadcast and during office hours an additional, senior member of the Starz staff also monitors the output on the channel along with other office duties;
- Moderators are “trained in the case of any doubt in relation to either a text, image or any contribution that if they had any doubt to refer upwards”. It said that all Moderators have access to guide documents and there is a further “escalation chain involving the channel manager, a senior compliance manager...a compliance consultant and legal team” and other senior staff; and
- the Moderator Manager and the Senior Manager “reviews the performance of the Moderators and texts that come in on a daily basis, and on a weekly basis gives feedback to the Moderation team”.

However, Columbia Pictures said that in this case “the Moderator unfortunately did not recognise the image as offensive [and although] he was unsure of what the image was he did not escalate it in accordance with our compliance procedures”. The Licensee described this as a “very, very big error”. It added that the Moderator did not recognise the “historical implications” of the image, and it further noted that many of its Moderators are “under 30”.

According to Columbia Pictures the image was onscreen for a total of 7 minutes and 5 seconds over a period of 51 minutes. It said that following a viewer complaint it had deleted the image and had promptly broadcast an apology. The Licensee said that the images it broadcasts for viewers occupy 4.49% of the television screen and appear in the lower corner. It said that 10 images are held in a queue and appear for a short period in rotation. It added that the images are usually viewers’ personal photographs.

Columbia Pictures said that as well as permanently banning the viewer who had submitted the image from the channel, it also now features “an onscreen banner message which rolls out regularly ‘Viewers should have courtesy and respect for all other viewers, for full T’s and C’s visit www.starz.co.uk”.

The Licensee said that as a result of this incident, a Senior Compliance Manager and the Channel Manager had reviewed all processes to make sure all staff were “fully aware of the compliance requirements”. It said its compliance documentation had been “refreshed and presented in a variety of ways to be more accessible and user-friendly for moderators”. In particular, it said:

- there would be updated “hate speech and cultural awareness training, including [on] historical references”;
- it had updated its written guidelines to underline the seriousness of publishing an image that one might be unsure of; and,
- new joiners to the compliance team would always receive “images training – with sample flashcard images to test responses”, which would include the image under discussion.

Columbia Pictures also said that following an investigation, it was concluded that the Moderator in this case had “failed to follow clear compliance procedures in accordance with training and failed to escalate the image because he did not understand [w]hat it was”. [X]

Columbia Pictures referred to Ofcom's reference in its Preliminary View that the image constituted “hate speech”. The Licensee said that there was “absolutely no intent on the part of the broadcaster to cause or create hate speech or hatred in any way”. It added that the “compliance structure of the channel with live moderation has been constructed specifically to avoid broadcasting any harmful or offensive material, and is of course intended to catch anything in extremis that could be considered hate speech”.

Also referring to Ofcom's Preliminary View, Columbia Pictures argued that the breaches of Rules 1.2, 4.2 and 4.8 of the BCAP Code did not warrant consideration for the imposition of a statutory sanction. The Licensee argued that there was “clearly no deliberate, repeated or reckless breach” in this case and put forward the following factors by way of mitigation when considering the potential seriousness of the breaches in this case:

- there was “no intent to cause offence”;
- the breach was caused by one instance of human error, “in a structure of a high level of compliance”;
- upon discovery, the image was removed, an apology was published on screen and there was “swift senior management review into what happened, and consequent compliance improvements”;
- the image contained no text and there were no “additional comments” surrounding the image or any other response to the image onscreen. The connotation of the image would “require close inspection to fully understand its meaning (given the image took up 4.49% of the screen at the bottom corner of the screen)”;
- there was “no editorial support or amplification of the image”, and the main editorial theme of the channel is the music video content which is playing at all times;
- the genre and editorial content theme of the programme is a music video request service. Further, the programme encourages interaction with viewers by asking them to

text in music request messages or images. It is a "reasonable assumption that viewers' likely expectations are to perceive any image appearing in the corner of the screen as a temporary viewer-submitted image with very limited editorial weight on the part of the broadcaster".

Columbia Pictures also referred to a previous sanctions case⁴ in which it said the broadcaster had "received a finding of breach twice prior to statutory sanctions for the third issue". It stated that, in contrast, Columbia Pictures had had no history of similar breaches or any hate speech issue and that it had nothing to do with the hate speech, which it condemned. It therefore argued that a "breach finding be sufficient for a 'first offence'," taking into account the steps it had taken as a responsible broadcaster and the assurances it had given on its compliance processes.

Decision

Reflecting our duties under the Communications Act 2003⁵, the BCAP Code contains rules which ensure that the inclusion of offensive and harmful advertising in television services is prevented.

In reaching its Decision, Ofcom has also had due regard⁶ in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as race, religion or belief, and those who do not.

Rule 1.2

Rule 1.2 of the BCAP Code states that advertisements must be prepared with a sense of responsibility to the audience and to society.

In coming to our Decision in this case we had regard to the International Holocaust Remembrance Alliance's ("IHRA") working definition of anti-Semitism which states:

"Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities"⁷.

The guidance published with the IHRA's working definition of anti-Semitism includes the following as a contemporary example (amongst others) of what could constitute anti-Semitism in public life and the media, taking into account the overall context:

⁴ The Licensee referred to Ofcom's [December 2016 Decision](#) in relation to Club TV Limited's service Peace TV Urdu.

⁵ <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

⁶ Under section 149 of the Equality Act 2010.

⁷ In December 2016, the UK Government agreed to adopt [the International Holocaust Remembrance Alliance's working definition of anti-Semitism](#).

“Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions”.

In our view, the image in this case was, and was likely to have been interpreted by viewers as being, a highly offensive and anti-Semitic caricature and as such it constituted a form of hate speech. We took into account that this image could be found on various neo-Nazi websites.

The Licensee said that there was “absolutely no intent on the part of the broadcaster to cause or create hate speech or hatred in any way”. It added that the “compliance structure of the channel with live moderation has been constructed specifically to avoid broadcasting any harmful or offensive material and is of course intended to catch anything in extremis that could be considered hate speech”.

We accepted that neither CSC nor the licensee intended to broadcast hate speech but did not consider this relevant to the question of whether or not the content itself constituted hate speech.

Columbia Pictures argued that the image was onscreen for a total of 7 minutes and 5 seconds over a period of 51 minutes; occupied 4.49% of the television screen; and appeared in the lower corner of the screen.

However, we considered that the image was clearly visible to viewers and its intermittent broadcast over a period of almost an hour was discriminatory and offensive treatment of Jewish people.

We considered the content had not been prepared with a sense of responsibility to the audience and to society.

Rule 4.2

Rule 4.2 of the BCAP Code states that advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards. For the reasons set out above, Ofcom considered that the image was an anti-Semitic caricature and as such had the potential to cause serious and widespread offence: it was found on various neo-Nazi websites and presented a derogatory stereotype of Jewish people against generally accepted moral, social and cultural standards.

Rule 4.8

Rule 4.8 of the BCAP Code states:

“Advertisements must not condone or encourage harmful discriminatory behaviour or treatment. Advertisements must not prejudice respect for human dignity”.

As set out above, Ofcom considered that the image presented a negative stereotype of Jewish people and thereby condoned and encouraged harmful or discriminatory behaviour. Further, the image can be found on various neo-Nazi websites. We considered this indicated it has been intentionally used to promote a harmful message in other situations and

therefore would be capable of encouraging harmful behaviour. In particular, we considered the fact that it was broadcast intermittently 22 times over a period of almost an hour made it particularly likely to be interpreted as condoning and encouraging hatred against Jewish people, even though Columbia Pictures said this was not its intention. In addition, for the reasons already given, we considered that the image was prejudicial to respect for human dignity.

We noted the Licensee's representations on the seriousness of the breach and consideration for statutory sanction. We will consider these as part of the sanctions process⁸.

Conclusion

We recognised that the Licensee: accepted that the content had breached the BCAP rules and had apologised; said it had broadcast this content in error, due to a Moderator not following compliance procedures; and had taken remedial action. This included: deleting the content; broadcasting an apology; implementing changes to its procedures to improve compliance in this area; and following the appropriate disciplinary process.

For the reasons above, it is Ofcom's Decision that the material breached Rules 1.2, 4.2 and 4.8 of the BCAP Code.

Ofcom considered the breaches to be serious because the image in this case constituted a form of hate speech and had the potential to cause serious offence and condone discriminatory treatment. It was a matter of concern to Ofcom that this highly offensive form of hate speech was intermittently shown 22 times, appearing in total for a period of 7 minutes and 5 seconds in just under an hour.

We are putting the Licensee on notice that we will consider these serious breaches for the imposition of a statutory sanction.

Breaches of BCAP Code Rules 1.2, 4.2 and 4.8

⁸ See: [Procedures for the consideration of statutory sanctions in breaches of broadcast licences](#).

Resolved

Cricket Highlights

Channel 5, various dates and times

Introduction

During its cricket coverage, Channel 5 Broadcasting Limited ("Channel 5" or "the Licensee") broadcast an invitation for viewers to enter a competition to win tickets to a test match. Viewers were invited to enter by premium rate ("PRS") text message, costing £2 plus the users' standard network rate, or by post.

Ofcom received a complaint from a viewer who attempted to enter the competition via text message but on doing so, received a reply advising them that the competition had closed.

The complainant identified that the voiceover that explained how to enter the competition did not correspond with the on-screen text. The competition's voiceover said that viewers should include "Match" (or "Match1" for postal entries) when submitting their entry whereas the on-screen text instructed viewers to use "Cricket" (or "Cricket1" for postal entries).

Ofcom considered this raised potential issues under Rule 2.14 of the Code, which states that:

"Broadcasters must ensure that listeners are not materially misled about any broadcast competition".

We asked the Licensee for its comments about how the competition complied with this rule.

Response

The Licensee said that it had started an investigation into this matter prior to Ofcom's request for its comments and found that the incorrect competition promotion had been broadcast on three occasions.

The Licensee confirmed that the visual solicitation included the words "Cricket" and "Cricket1", and the verbal solicitation included the words "Match" and "Match 1". It said that the verbal solicitation ("Match" and "Match 1") was correct. It added that the information describing the prize and the competition open and close dates were accurate in all versions.

Channel 5 explained that the broadcast of the incorrect graphic was a result of human error. It said that a member of the team employed by the production company had, in addressing a technical issue, inadvertently changed the visual entry information from that of the open competition to a version used in a previous competition promotion. The Licensee said that contrary to the instructions they gave the independent production company, the team member who edited the graphic did not alert Channel 5's Head of Production to the changes made prior to delivery and broadcast.

The Licensee explained that it had instigated a refund campaign targeting the 251 viewers who entered by text, submitting the wrongly promoted word. It added that the cost to these viewers was the standard network rate (between 10 and 15 pence). The Licensee said it also

identified the 69 postal entries that were affected, and the authors of those entries were offered a refund of the cost of a first-class stamp.

Channel 5 said it addressed the mistake and immediately requested the independent production company remove all versions of the incorrect competition graphic and ensured the incorrect version was not available online or via catch-up services. The Licensee said it reinforced the longstanding position to all key staff at the production company that no changes are to be made to any competition graphics without specific Channel 5 sign-off. Channel 5 also said that as a further preventative measure, its Commercial Development Team will ensure that the signed-off copy is marked "Final" and "Only Use This".

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 services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

This is reflected in Rule 2.14, which requires broadcasters to ensure that viewers and listeners are not materially misled about any broadcast competition.

In this case, the Licensee broadcast incorrect entry information on three occasions. As a result, some viewers tried to enter the competition but were unable to do so. Although those who attempted to enter by text were not charged the premium rate of £2.00, these entries were subject to standard rate text charges of between 10 and 15 pence. Further, postage costs were incurred by those who entered by this route.

However, Ofcom took into account the action taken by the Licensee to remove the incorrect graphic and the process it put in place to ensure those affected were offered a refund. Ofcom also acknowledged the additional measures it had instigated to mitigate recurrence of this incident.

Therefore, Ofcom's Decision is that the matter is resolved.

Resolved

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

Not in Breach

James O'Brien Show (presented by Sadiq Khan) LBC 97.3FM, 27 October 2017, 10:00 to 13:00

Introduction

LBC is a London-based national talk and phone-in radio station. It features a number of shows, typically two to three hours in length and broadcast either daily or weekly, hosted by a variety of presenters around regular news bulletins. The licence for the service is held by LBC Radio Limited ("LBC Radio" or "the Licensee").

The *James O'Brien Show* is broadcast daily from 10:00 to 13:00. Between 23 and 27 October 2017 the regular presenter for this show was absent and a variety of guest presenters were asked to stand in. They were: Jacob Rees-Mogg MP (on Monday 23 October 2017); Chuka Umunna MP (on Tuesday 24 October 2017); journalist Kevin Maguire (on Wednesday 25 October 2017); journalist Robert Peston (on Thursday 26 October 2017); and Mayor of London and member of the Labour Party Sadiq Khan (on Friday 27 October 2017).

Ofcom received three complaints about aspects of the content in the programme presented by Mr Khan on 27 October 2017. The complainants objected to the handling of a phone-in with guest Jeremy Corbyn MP, leader of the Labour Party, by Mr Khan on the grounds of due impartiality. The three complainants argued that the phone-in was effectively "*a party political broadcast*". Two specified that there had been a lack of challenge to Mr Corbyn from Mr Khan and one suggested that "*...if LBC is to offer a platform to the Labour Mayor of London, it should be on the proviso there will be political balance...*".

Mr Khan's programme on 27 October 2017 ("the Programme") was divided into four sections: the first was an examination of the implications of the Brexit negotiations; the second discussed sport and its connection to politics; the third covered housing provision in London and across the UK; and the fourth ("the Phone-in") featured a keynote discussion with Mr Corbyn. 31 callers contributed to the programme across the three hours and Mr Khan read out additional messages received via Twitter and text.

The first section of the Programme included eight calls from listeners on Brexit. Some of the callers were supportive of Mr Khan and his political activity (one, "*Naima*", said she was "*so proud to have you as my Mayor*"). Others were critical, including:

- "*Dave*", who outlined his views on employment possibilities in Europe for black and minority ethnic people and said he was "*ashamed sometimes listening to you and what you have to say about Europe and what a great place it is*"; and
- "*Hanad*", who asked Mr Khan why he had said he had used the company Uber when campaigning to become Mayor of London, then later said he had never used it when considering revoking its licence.

The second section of the Programme discussed sport and incorporated calls from nine listeners who expressed a variety of viewpoints, none of which touched upon current Labour Party policy.

The third section covered housing provision in London and across the UK. It began with Mr Khan stating that recent figures demonstrated London needs to build 66,000 new homes every year, 65% of which should be affordable, to meet need. Seven callers then provided comments on social housing, foreign investment, affordable housing and the rights and experience of landlords. Two callers specifically took issue with Labour's policy on housing and Mr Khan's views and statements on the subject, with one ("Gary") challenging him on his intentions regarding the development plan for New Covent Garden Market and the other ("Henry") on his proposals for affordable housing.

The final section of the Programme was the Phone-in with Mr Corbyn MP which was chaired by Mr Khan. It lasted for just under 30 minutes and consisted of: an introduction by Mr Khan and Mr Corbyn (which included an overview of Mr Corbyn's morning activity in his constituency); questions from seven listeners who called in to the show; further questions from Mr Khan; responses given by Mr Corbyn; and additional summaries and commentaries on those responses by Mr Khan.

The Phone-in opened with the following introduction:

Mr Khan: *"... I'm really pleased to have Mr Jeremy Corbyn in the studio. Good afternoon, Jeremy!"*

Mr Khan then asked Mr Corbyn two questions directly. Firstly, he asked for Mr Corbyn's views on the recent suspension from the Labour Party (two days previously) of an MP over abusive comments the MP was alleged to have made. He also asked Mr Corbyn for a response to *"criticism of our party that we delayed in suspending this MP"*. Mr Corbyn gave an outline of how events had unfolded and a timeline of Labour's response. During the conversation the phrase *"our party"* was used three times – twice by Mr Khan and once by Mr Corbyn.

Secondly, Mr Khan asked about Mr Corbyn's recent proposals for increased investment in social housing. Mr Khan referred to housing in London and steps he, as Mayor of London, had recently taken in this regard (including announcing a recent estimate that 66,000 homes are needed each year to meet the needs of Londoners and his belief that spending on social housing needs to return to 2010 levels). He asked what Mr Corbyn would do differently if he was Prime Minister. Mr Corbyn agreed with Mr Khan's views on spending levels in London and sympathised with the issues. He gave a detailed response, including a commitment that Labour would build 500,000 new social homes a year. Mr Khan made no further comment but expressed agreement with a point made by Mr Corbyn (about speculative development being a key problem).

The Phone-in then included seven questions from callers and two further questions asked by Mr Khan. The questions covered a broad range of topics:

- *"Samia"* asked how Labour's policy on social housing would help residents who lived near the site of the Grenfell Tower tragedy, whose management organisation was *"still ignoring us"*. She said, *"It's all good and well to say, you know, you're gonna reform social housing, that's long overdue, and you're gonna give residents some powers. But what can you do for us now?"* Mr Corbyn: expressed sympathy for the residents of the area; agreed immediate attention was needed; termed the residents' treatment by the local borough *"appalling"* and by the Council and landlord *"disgraceful"*; and said the Government should also take action. Mr Khan concluded this discussion with, *"Jeremy,*

thank you very much for your answering and the straight way you answered Samia's question".

- *"Chris" called to discuss Brexit and asked whether, if a Labour government was in power, Mr Corbyn would support any calls for a second referendum for the British people to have the final say on the deal. Mr Corbyn outlined his views, saying he wanted tariff-free access to markets, the protection of all European regulations which related to workers' rights and the environment and a meaningful vote in Parliament. Mr Khan put to Mr Corbyn texts and calls which he said had been received from "Londoners who are EU citizens" who are "very uneasy about their future" and who "work hard, they pay taxes, they contribute to our economy, to our social life, to our cultural life". He asked what Mr Corbyn would say to these people. Mr Corbyn referred to a Parliamentary motion passed immediately after the referendum and said that for EU nationals and their children, "their future is here, as part of our community". Mr Khan concluded by saying: "Jeremy, thanks for that. I think you couldn't have been clearer".*
- *"Sam" asked Mr Corbyn to clarify his policy on tuition fees. Mr Corbyn explained Labour would immediately grant free education for everyone up to degree level and that, had they been elected in the General Election, tuition fees would already have been abolished for the current academic year.*
- *"Ben" called to discuss Universal Credit. This discussion ran as follows:*

Mr Khan: *"The next caller – Actually, before I bring in Ben who's in [location] who wants to ask about the Universal Credit, I mean – the first three PMQs after recess you've focused on Universal Credit. And you've already brought about some change in government policy".*

Mr Corbyn: *"Mmmm–"*

Mr Khan: *"–Can I just tell you, in London we've had three pilots of Universal Credit, in Croydon, Hounslow and Southwark. More than 2,500 people in the pilots are late with paying their rent because of the delays. Some are facing potential eviction. And there's £8 million collectively in rent arrears. So that's just the context before I put through Ben who's in [location] to ask a question about Universal Credit".*

Mr Corbyn: *"Sure".*

Mr Khan: *"Ben, over to you Sir".*

Mr Corbyn: *"Shall we take Ben's question first, yep?"*

Mr Khan: *"Yep".*

"Ben": *"Hello Sadiq. Hello Jeremy".*

Mr Khan: *"Hi Ben".*

"Ben": *"Erm, yeah, so I was just wondering, I've seen a lot of debates in the House of Commons where um, MPs both sides saying they agree with the*

policy of Universal Credit. I don't, I'm not sure I do and I just wondered if you agreed with the premise. Because not only is it less than Jobseekers¹ was anyway, um, I think the wait between, you know, the six week wait between first applying to get in it, I don't think that's good enough. It's obviously not helping enough people out of, you know, situations they find themselves in".

Mr Khan: *"Ben, thank you. Jeremy, can you actually take some time with this one, and also can you deal with Parliamentary process? 'Coz it seems to me, I mean, since I stopped being an MP, things have changed in Parliament in relation to what happens when votes are won [laughter] and—"*

Mr Corbyn: *"—Well, we obviously need you back! [laughter]"*

Mr Khan: *"Well, I mean, actually take some time with this one because actually this is such an important issue. But also explain the link with Parliamentary process and explain the vote that took place and the concessions you've managed to bring about from the Government".*

Mr Corbyn: *"Yep. Universal Credit has been rolled out so far to less than 8% of the number of people that will finally be put on it. It's being rolled out across the whole country and will take some years to do. The dissatisfaction rate is very high already. 20% of those people that are already in receipt of Universal Credit are dissatisfied with the way the system is operating. Many people have gone into rent arrears as a result of it, many people have been evicted from their homes as a result of it. Many people on Universal Credit are significantly worse off than they were before. The six week wait for payment has been met by only 80% of the cases that have been applied for. Therefore, that suggests to me that 20% are waiting more than six weeks for money. Landlords don't wait six months for money, six weeks for money, or eight weeks for money, or anything else. They want it straight away, particularly in the private sector. What we've done is, um, a number of things. One is, I pointed out that the helpline charges of up to 55 pence per minute to phone the DWP to ask about Universal Credit were absolutely appalling—"*

Mr Khan: *"Mmmm—"*

Mr Corbyn: *"—and astonishingly high. A week later the Government recanted on that and cancelled the charges. They in fact had an income of, I think, £20 million from call charges over the previous year. The second point we did on Parliamentary process was, we called for the pausing of the rollout to examine the whole thing, for the points exactly that you've made, Ben, about the number of people that are worse off under Universal Credit as well as the numerous inefficiencies—"*

Mr Khan: *"—And that's the whole point of a pilot! The pilot, is that, you have a pilot, and then if it's not working you just improve it, but—"*

¹ Jobseekers Allowance

Mr Corbyn: *"–Exactly my point! If you've got a pilot and you find that 20% of it is not working, then I would have thought that's a reason enough–"*

Mr Khan: *"–And that's a London experience, by the way–"*

Mr Corbyn: *"–that's a reason enough to pause it and go on and do something else, or at least look again at the whole system. So we put this motion to Parliament to do it. The Conservatives seem to be in denial about all this so they decided that their "bold initiative" was to abstain on what they see as one of their flagship policies. And so what we did was created a vote by two Labour MPs objecting to the motion in order to ensure there was a vote in Parliament. 299 MPs from all parties voted, all opposition parties that is, voted for the pause. Nobody voted against that. That is the will of Parliament. The Government is saying, well it was an opposition motion, therefore it's not binding. [talking over each other] When you elect somebody to Parliament you expect them to take decisions".*

Mr Khan: *"This is what people don't understand. Because there's a big discussion about our Parliament being sovereign–"*

Mr Corbyn: *"Yep–"*

Mr Khan: *"–And MPs having more powers and them being relevant, particularly when you think about Brussels and Strasbourg. Parliament decides on a motion. It passes. And yet the Government ignores it".*

Mr Corbyn: *"Indeed. And this is the, one of the great failings of our Parliamentary system. There are many good things about it, but there is a great failing, which is that the Government can, and does, ignore motions passed on an opposition day motion. Now, when you were in Parliament, Sadiq, and when Labour was in Government, if the opposition put up a motion, we would vote on it! Usually to amend it or something else, but we would always vote on it–"*

Mr Khan: *"–and actually–"*

Mr Corbyn: *"–what we've now got is this non-participation–"*

Mr Khan: *"–and actually, we'd have the humility to accept defeat and change policy. The Gurkhas was a classic example. Er, and so, you know, even with big majorities, the Executive had the humility to recognise when Parliament has spoken".*

- *"Nathaniel"* asked a question about mental health, which Mr Khan said he knew Mr Corbyn felt *"very strongly about, as indeed I do"*. The caller began by saying he was pleased to be speaking to the person who inspired him to become interested in politics. Mr Khan said, *"Jeremy, he means you not me, by the way!"* Mr Corbyn responded, *"Well, you're younger than me!"* and Mr Khan replied, *"You got him engaged!"* *"Nathaniel"* outlined his personal struggles with mental health. He asked, if Labour returned to power, what Mr Corbyn would do to protect and safeguard people who experience

mental health issues. Mr Corbyn outlined his view that more people needed quicker treatment for mental health. He set out the Labour Party's policy (that there should be parity between physical and mental health). He said it would be a priority to seek immediate treatment and to fund it in education and that the issue should also be considered a higher priority by employers. There was then the following exchange:

Mr Khan: *"Can I just say, Jeremy, I mean, we've set up in London "Thrive London" ... a movement of employers, universities, hospitals, politicians, coming together to raise awareness. And me and my staff, deputy mayors, Executive Directors, have all been on a mental health first aid training course—"*

Mr Corbyn: *"—Well done".*

Mr Khan: *"—because it's about leadership here. And so I'm sure Nathaniel and his family and friends and those who have experience of people suffering mental ill-health will appreciate the leadership that you're showing".*

Mr Corbyn gave details of further work which he said was needed (some of which Mr Khan agreed with) and Mr Khan finished with *"Thank you, Jeremy"*.

- *"Jim"* called to discuss the situation in Northern Ireland and asked whether, if Mr Corbyn was to become Prime Minister, he would introduce a Northern Ireland independence bill. Before Mr Corbyn gave his answer, Mr Khan referenced recent cuts to the Welsh devolution budget, which he broadly approximated to the total sum the Conservative Party had spent going into coalition with the Democratic Unionist Party (both of them laughed at the comparison). Following Mr Corbyn's answer Mr Khan said: *"Jeremy, thanks as ever for a direct answer to a direct question"*.
- *"Barry"* asked Mr Khan about historical statements he had made which were unsupportive of Mr Corbyn. This exchange ran as follows:

"Barry": *"This is actually a question for both of you, if possible. Mr Mayor, I just wanted to ask you: Who was it who said, Jeremy has already proved that he is unable to organise an effective team, has failed to win the trust and respect of the British people. Throughout this referendum campaign and the aftermath, Jeremy failed to show any leadership we desperately needed. His position on the EU membership was never clear and voters didn't believe him. Mr Mayor, were you wrong to say this? Do you believe Jeremy on his promise to end student debt and renew Trident as well, basically?"*

Mr Khan: *"Well, wow, that's 17 questions in one, Barry, well done! Listen, let me deal with that directly. We had a leadership contest in our party, and Owen Smith stood against Jeremy. And the magnanimity of Jeremy when he defeated Owen is to put him in his shadow cabinet. And Jeremy's not the first Labour leader to give jobs to candidates who stand against him, nor is he the first Labour leader who stands in an election and wins it and brings on board his team defeated candidates as well as those who supported the other candidates. And if you can't have a frank discussion during a leadership contest, which is something that the Tories didn't do,*

then when can you have a discussion about the policies of each of the candidates? And I'm not just saying this because Jeremy's here, but he has shown during the snap election Theresa May called this year, and the only reason for Theresa May to call that election, when she was 20 points ahead, was to try and wipe out our party, and not because she wanted a better mandate for the Brexit. And so, you know, Jeremy showed that we weren't wiped out, but also made significant gains. But Jeremy, I'll let you answer Barry's question".

Mr Corbyn: *"Well, Barry, thanks for your question. I led our party during the EU referendum campaign on a policy of Remain and Reform. I believe the EU needs reforming, needs quite a lot of fundamental change, but I did say we should remain. Two-thirds of Labour supporters voted with me on that, sadly we didn't win that referendum. So we're now where we are on this. My job is to lead the party. I'm very proud to lead the party. Very proud of our growth in membership. Very proud that in the General Election we gained three million more votes than we got in 2015, the largest vote in England since 1970, the biggest swing to Labour since 1945. I'm proud of that, but very, very sad that we didn't quite win the election. Because I want to deal with housing, with mental health. I want to deal with the grotesque levels of inequality and injustice that exist in Britain. I want to lead a government that can bring about this huge social change, revolutionary social change, that Britain so desperately needs. And that's what we exist in the Labour Party to achieve. And it does mean that after an election process, and I've been through two leadership elections, you've obviously got to work with all your colleagues. And that is exactly what we're doing in Parliament. And I'm travelling the country to go to every marginal constituency we've got to win in the next general election, I've been to 52 since July, and I'm going round all of them. We are gonna take it on, take on the Tories, and you know what? We're gonna win!"*

- Finishing the Phone-in, Mr Khan asked two of his own questions (as *"Sadiq from Tooting"*). The first concerned whether Prime Minister Theresa May had any qualities which Mr Corbyn admired. Mr Khan began his enquiry with *"You and I could both agree on many of the things we think Theresa May is getting wrong as the Prime Minister"*. Mr Corbyn gave examples of Prime Ministerial policies he both agreed and disagreed with. Finally, Mr Khan asked what Mr Corbyn's response had been to the Prime Minister's conference speech at the recent Conservative Party conference². Mr Corbyn expressed sympathy with the fact that she had experienced difficulties with her delivery, said he fundamentally disagreed with her objectives (*"obviously I do"*) and anticipated there would be another election *"at some point soon"*. He said, *"This government is unstable, it's divided, I can't see it lasting"*.

The final exchange was as follows:

² The Prime Minister experienced difficulties when giving her keynote speech at the Conservative Party Conference on 4 October 2017. These included a prankster handing her a joke "briefing" on the stage, the magnetic wording on the background behind the lectern falling off the wall and her suffering from a cough mid-speech.

Mr Khan: *"Jeremy, thank you so much for coming in to the studio to speak to listeners across the country, to answer my questions. But also, I think what you said about the way we do politics is so important. Because young people in particular are watching the way we conduct ourselves, whether it's PMQs, whether it's the debate we're having here or across the country. I'm going to let you have the final word, because it's really important that we, you know-"*

Mr Corbyn: *"Everyone has a view, everyone has an idea, everyone has an opinion. We can all learn something from each other. And so when I travel around I talk to lots of people, I talk to homeless people, I talk to managers, I talk to all kinds of people all the time. And do you know what? You learn some kind of philosophy from all of those. I remember death of an old friend of mine in my constituency. He was a building worker and he died. And in his retirement, just before he died, he did lots of good for other people. And his house, quite honestly, was very sparse, very bare kind of property. And somebody went to him and said, 'Jim, why do you live like this?' He said, 'I live simply that others might simply live.' A philosopher!"*

Mr Khan: *"Ladies and gentlemen, that was Jeremy Corbyn. You've been listening to me, Sadiq Khan, and Jeremy Corbyn. Coming up next is Shelagh Fogarty. Thank you very much everyone".*

Ofcom considered that the programme dealt with matters of political controversy and matters relating to current public policy, namely Labour Party policy on a number of issues including housing, mental health, the political situation in Northern Ireland, education and welfare.

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

Rule 5.5: *"Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service... This may be achieved within a programme or over a series of programmes taken as a whole".*

Rule 5.9: *"Presenters and reporters (with the exception of news presenters and reporters in news programmes), presenters of "personal view" or "authored" programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial controversy or matters relating to current public policy. However, alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. Presenter phone-ins must encourage and must not exclude alternative views".*

Ofcom requested comments from the Licensee on how the programme had complied with these rules.

Response

The Licensee said that in the week beginning 23 October 2017 the individuals who had stood in for James O'Brien to present his show included a broad range of public figures with varying political allegiances, views and backgrounds.

In relation to Rules 5.5 and 5.9, LBC Radio pointed to the general context around the Programme, explaining that “a range of voices and opinions were heard across the week”, including those of Jacob Rees-Mogg MP whom the Licensee described as a “prominent Conservative MP”.

The Licensee emphasised that Mr Khan did receive a number of critical callers throughout the Programme, including: “*Hanad*” who challenged the Mayor’s public record in relation to a discussion about Uber; “*Dave*” who disagreed with Mr Khan’s views on Europe; “*Gary*” who said he had written to Mr Khan on the subject of New Covent Garden Market and felt let down by the Mayor’s lack of response; “*Serena*” who thought housing policy had “*failed on all levels*”; and “*Henry*” who worked for a property developer and believed the government’s stated affordable housing policy was not achievable and would hinder development. LBC Radio said this demonstrated that the Programme had been “clearly set up, therefore, as a forum in which listeners could, and did, challenge a senior politician”.

Regarding the Phone-in, the Licensee said it had ensured producers selected “a broad and balanced cross-section of questions and callers”, with neither Mr Khan nor Mr Corbyn having any input into the topics discussed or sight of the questions in advance. LBC Radio said the questions featured were an accurate reflection of the callers who contacted the show. Nevertheless, challenge had been present, including: the analysis of Labour’s handling of the accusations against the MP who was accused of abusive comments (which the Licensee termed “a politically damaging story for Jeremy Corbyn and his party”); “*Samia*” who had been implicitly critical over the response to the Grenfell Tower tragedy; and “*Barry*” who raised Mr Khan’s previously critical comments of Mr Corbyn. The Licensee emphasised that none of the callers praised or commented on Mr Corbyn’s answers and did not identify themselves as Labour Party supporters.

LBC Radio said it gave “very careful consideration” to how due impartiality should be applied to the Programme. The Licensee outlined a number of factors which it considered to be relevant, including that: LBC listeners understood that a range of views are featured within each programme and across the day, balanced within individual shows and in linked programmes; there was “complete transparency” in the show’s agenda (in that it was made clear that Mr Khan was also a member of the Labour Party and was acting in his capacity as Mayor of London); Mr Khan had previously been a public critic of Mr Corbyn; they would both be challenged by callers; and there was no election or referendum that the Programme could be reasonably expected to influence.

The Licensee stressed that “LBC’s format is for “rolling debate” on the major issues and stories of the day”. The programme teams had scheduled continued reaction to the Phone-in with Mr Corbyn throughout the afternoon in the immediately-following Shelagh Fogarty and Iain Dale programmes and a programme trail for Shelagh Fogarty’s show had been included within the presenter handover from Mr Khan. In subsequent representations to Ofcom, the Licensee explained that it did not implement a standard policy on signalling editorially linked programmes to listeners. Instead, the way in which programming is linked depends on the particular context. The Licensee outlined that, in most instances, because the nature of the programming encourages broad and varied examination of topics, due impartiality is achieved within the programme itself. However, it also emphasised again the “consistent rolling nature of LBC’s programming” which it considered was “a significant factor” in listeners’ understanding of how programmes were editorially linked. LBC Radio said that big topics, such as significant political interviews, often formed a theme for the day and gave

examples of previous interviews with Prime Minister Theresa May, Boris Johnson and Nigel Farage which had all followed this format. The Licensee said the name of the station, "Leading Britain's Conversation", appropriately referred to the flow of programmes and how conversations continued throughout the day.

LBC Radio provided additional details on the Shelagh Fogarty and Iain Dale programmes on the same day, which it described as "linked programmes". The Licensee emphasised that the Shelagh Fogarty programme had included views which were "not favourable to Sadiq Khan (and the views on housing backed up by Jeremy Corbyn)" and that the Iain Dale programme had included considerable critique of the Phone-in. LBC also provided information on the previous edition of the *James O'Brien Show* which had been guest-presented by Jacob Rees-Mogg MP who, "as a senior Conservative politician", they argued "was able to provide some very prominent coverage for the Conservative party". The Licensee said that this show had included an interview with Sir Vince Cable, the leader of the Liberal Democrats. In subsequent representations the Licensee provided greater detail on this programme, highlighting the introduction given by Mr Rees-Mogg ("*It's bad luck for all you leftie snowflakes out there because there's going to be a change of tone*") and stating that it had given "a significant forum for a Conservative viewpoint on all matters". LBC Radio also referred to other programmes in that week's series of the *James O'Brien Show*, broadcast earlier in the week, including those presented by Chuka Umunna (who the Licensee said had "received some negative feedback from listeners") and Kevin Maguire (which LBC Radio said "included some criticism of the Labour Party").

In conclusion, the Licensee maintained that much of the listener feedback incorporated into programmes later that day about the Phone-in was negative and that listeners had viewed the fact that Mr Corbyn would only be interviewed by a member of his own party as "a sign of weakness". LBC Radio characterised the Phone-in as "a moment of significant public interest" and said it had been "a catalyst for several hours of debate and discussion on LBC which helped to inform listeners' opinions – both positively and negatively – on Jeremy Corbyn, Sadiq Khan and the state of the Labour Party". Finally, the Licensee highlighted the importance of the right of freedom of expression, which it argued was restricted by Section Five of the Code. LBC Radio said that "numerous cases of the European Court of Human Rights have underlined that where political speech is involved – as in Sadiq Khan's LBC programme – this right is particularly important".

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that there had been no breach of Rules 5.5 and 5.9. The Licensee was given the opportunity to make representations on the Preliminary View but confirmed to Ofcom that it had no substantive comments to make.

Decision

Reflecting our duties under the Communications Act 2003 ("the Act")³, Section Five of the Code requires that the special impartiality requirements are met.

Rule 5.5 states that:

³ <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

“Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service...This may be achieved within a programme or over a series of programmes taken as a whole”.

Rule 5.9 states that:

“Presenters and reporters (with the exception of news presenters and reporters in news programmes), presenters of “personal view” or “authored” programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial controversy or matters relating to current public policy. However, alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. Presenter phone-ins must encourage and must not exclude alternative views”.

When applying the requirement to preserve due impartiality, Ofcom takes account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention of Human Rights. In carrying out its duties, Ofcom must seek to balance the broadcaster's freedom to discuss any controversial subject or point of view in their programming and the requirement in the Code to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy.

As made clear in Ofcom's Guidance Notes on Section Five of the Code, the broadcasting of comments either criticising or supporting the policies and actions of any political organisation or elected politician is not, in itself, a breach of due impartiality. Any broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints in an appropriate way to ensure that Rules 5.5 and 5.9 are complied with.⁴

Engagement of Section Five of the Code

Ofcom first considered whether the requirements of Section Five of the Code should be applied: that is, whether the Phone-in with Mr Corbyn (and the wider Programme) concerned matters of political or industrial controversy or matters relating to current public policy.

As detailed above, the Phone-in covered a broad spectrum of Labour policy including policy relating to housing, mental health, the political situation in Northern Ireland, education and welfare. The wider Programme featured discussions on Brexit and housing provision in London and across the UK. Ofcom concluded that the Phone-in, and the Programme, dealt with matters of political controversy and matters relating to current public policy, in that they included discussion of a broad spectrum of issues on which politicians, industry and/or the media are in debate. LBC Radio was therefore required to preserve due impartiality to comply with Rule 5.5 of the Code.

We also considered that the Programme could be considered a “personal view” or “authored” programme within the meaning of Rule 5.9 of the Code. This was because Mr

⁴ See Ofcom's Guidance Notes on Section Five of the Code, paragraph 1.34, https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf

Khan, as the guest presenter who was also the Mayor of London and a prominent politician within the Labour Party, could be expected to express his own views (and indeed did so) on the matters of political controversy and current public policy under discussion. LBC Radio was therefore required to comply with Rule 5.9 of the Code and ensure that alternative viewpoints were adequately represented, either within the Programme itself or in a series of programmes taken as a whole.

Preservation of due impartiality

In judging whether due impartiality has been preserved in any particular case, the Code makes clear that “due” means adequate or appropriate to the subject and nature of the programme. “Due impartiality” does not therefore mean an equal division of time must be given to every view, or that every argument must be represented. Due impartiality can be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures this. Context, as defined in Section Two (Harm and Offence) of the Code, is also important in preserving due impartiality. The Code makes clear that the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content and the extent to which the content and approach is signalled to the audience.

Rules 5.5 and 5.9 make clear that due impartiality may be achieved “within a programme or over a series of programmes taken as a whole”.

Whether due impartiality was preserved within the Programme

Ofcom first considered whether the Licensee had preserved due impartiality in the Programme by, for example, presenting sufficiently alternative viewpoints on the matters of Labour Party policy which were discussed.

The Phone-in was the first time Mr Corbyn had agreed to appear on the station since he had become Leader of the Labour Party. The Licensee characterised this as “a moment of significant public interest”. In such circumstances, we considered it a relevant background factor that the chairman of the Phone-in, Mr Khan, was himself one of the most high-profile Labour politicians in the country – a former MP who remained a prominent member of the Party and has been elected the first Labour Mayor of London in eight years.

We took into account the Licensee’s arguments that: the Phone-in had featured “a broad and balanced cross-section of questions and callers”; neither Mr Khan nor Mr Corbyn had any input into the topics discussed or sight of the questions in advance; challenge had been present, including by “*Samia*” (on housing) and “*Barry*” (on Mr Khan’s previous public statements on Mr Corbyn); and none of the callers praised or commented on Mr Corbyn’s answers and did not identify themselves as Labour Party supporters (although we identified that one, “*Nathaniel*”, did say that Mr Corbyn had inspired him to become interested in politics, which suggested he was a supporter).

We were also mindful of the additional contextual factors which the Licensee had considered to be relevant, namely that: there was “complete transparency” in the show’s agenda (in that it was made clear that Mr Khan was also a member of the Labour Party and was acting in his capacity as Mayor of London); Mr Khan had previously been a public critic of Mr Corbyn (which we considered might have signalled to listeners that his views and those of Mr

Corbyn's would not necessarily correlate); and there was no election or referendum that the programme could be reasonably expected to influence.

We acknowledged that, in addition to this, Mr Khan had put a small number of criticisms to Mr Corbyn for response. At the beginning of the Phone-in, Mr Khan asked Mr Corbyn to respond to "*criticism of our party that we delayed in suspending this MP*". Later, during the call from "*Chris*" on Brexit, he asked what Mr Corbyn would say to "*Londoners who are EU citizens*" who had sent texts to the programme expressing their anxiety about their future.

We were concerned, however, that Mr Khan had not provided any further challenge in the absence of additional callers with alternative viewpoints (which can be a technique for preserving due impartiality in such circumstances⁵). Conversely, he made a number of statements that could be described as being supportive of Mr Corbyn and the views he was expressing ("*I think you couldn't have been clearer*"; "*explain ... the concessions you've managed to bring about from the Government*"; "[people would] *appreciate the leadership you're showing*") and Mr Corbyn made reciprocal statements about Mr Khan ("*that's exactly my point*"; "*well done*").

Considering the Phone-in overall, Mr Corbyn was in our view provided with the opportunity to set out his opinions on a number of policy matters largely unchallenged by Mr Khan. We therefore considered whether alternative viewpoints were reflected as appropriate in the Programme as a whole.

As outlined above, the Code makes clear that "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Ofcom's Guidance to Section Five of the Code also states that: "In audience participation programmes, for example, where viewers and listeners are encouraged to telephone, email or text in to the programme, broadcasters do not necessarily have to ensure an equal number of points of view are featured in any one programme or even across the series as a whole"⁶.

In relation to the wider Programme, we took into account the Licensee's arguments that a number of callers had been put to air who were critical of the Labour Party in general and Mr Khan in particular, including: "*Hanad*" (regarding Uber); "*Dave*" (speaking on Brexit); and "*Gary*", "*Serena*" and "*Henry*" (all commenting on housing policy). In Ofcom's view, Mr Khan was challenged on these issues and gave responses ranging from an agreement to action (in the case of "*Gary*" regarding his correspondence on New Covent Garden Market) to explanations on policy (in response to "*Dave*" on his views on Brexit). The Licensee had argued that this demonstrated that the programme was "clearly set up, therefore, as a forum in which listeners could, and did, challenge a senior politician". We also accepted that the audience participation format of the programme was relevant in this context in that Mr Khan was, throughout the Programme and, to a large extent, in the Phone-in with Mr Corbyn, responding to questions put to him by listeners on the matters which were of interest to them. This influenced the topics discussed and the range of views present in the programme. We noted however, that it remains the broadcaster's responsibility to have systems in place to ensure that due impartiality is preserved within such programmes.

⁵ See, for example, paragraph 1.17 of Ofcom's published Guidance on Section Five of the Code (https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf).

⁶ Ofcom's published Guidance on Section Five of the Code, paragraph 1.38

In our view, the challenge which was present (as outlined above) would have alerted listeners to alternative viewpoints to those expressed by Mr Khan and Mr Corbyn on the matters of Labour Party policy discussed by them. We also considered it relevant that listeners would likely have been well aware of Mr Khan and Mr Corbyn's positions and therefore that they were likely to adopt a particular stance on the matters discussed (i.e. they were likely to be supportive of Labour Party policy on the issues under discussion).

However, there was a lesser degree of challenge to Mr Corbyn's views expressed during the course of the Phone-in than might normally have been expected in the circumstances. In Ofcom's view, the leader of a political party being questioned in a Phone-in which was chaired by another high-profile member of the same political party was a relevant factor. Ofcom considered it likely that listeners would have expected a robust degree of challenge either from listeners contacting the Programme or, in the absence of this, from the guest presenter. As outlined above, we considered such challenge was largely absent in the Phone-in. However, taking due regard of the contextual factors outlined above, we concluded that alternative viewpoints were adequately represented within the wider Programme on the matters of political or industrial controversy which were under discussion and matters relating to current public policy. Nevertheless, we were concerned that their representation had not been more substantial and that the Licensee did not appear to have recognised the need for particular care to be taken in such circumstances.

Whether due impartiality was preserved during "a series of programmes"

Ofcom was mindful of the fact that Rule 5.5 and Rule 5.9 also provide for due impartiality on matters of political or industrial controversy and matters relating to current public policy to be preserved "over a series of programmes taken as a whole". This was heavily emphasised by the Licensee in its representations. For completeness, we therefore went on to consider whether alternative viewpoints were also reflected in other content broadcast by LBC Radio, which the Licensee had submitted were "linked programmes".

The Code defines a series of programmes as "more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience".

LBC Radio had cited a substantial amount of content in this regard, totalling over 18 hours of broadcasting. It argued that two sets of surrounding content had been "linked" to the Programme presented by Mr Khan. Firstly, the Licensee cited the surrounding programming which had been broadcast on 27 October 2017, specifically the shows presented by Shelagh Fogarty and Iain Dale at 13:00 and 16:00 respectively. The Licensee argued these had been deliberately designed to cover continued reaction to the Phone-in in the Programme earlier in the day. Second, LBC Radio cited other guest-presented editions of the *James O'Brien Show* which had been broadcast in the same time slot in each of the five days of the week beginning Monday 23 October 2017 (i.e. the programmes presented by: Jacob Rees-Mogg on 23 October 2017; Chuka Umunna on 24 October 2017; Kevin Maguire on 25 October 2017 and Robert Peston on 26 October 2017). The Licensee had placed particular emphasis on the first of these programmes, presented by Mr Rees-Mogg, which it argued had given "a significant forum for a Conservative viewpoint on all matters".

Surrounding programming on 27 October 2017

Ofcom first considered the Licensee's argument that due impartiality was preserved through discussion included in subsequent programming on the day of the Phone-in (specifically the programmes presented by Shelagh Fogarty at 13:00 and Iain Dale at 16:00) on the basis that these were "linked" programmes within the meaning of the definition of a "series of programmes taken as a whole".

LBC Radio had argued that these two programmes were editorially linked to the programme presented by Mr Khan because of the well-established nature of the service as providing "rolling debate". The Licensee said that, although it did not implement a standard policy on signalling editorially linked programmes to listeners, the "consistent rolling nature of LBC's programming ensures the audience understands the debate on big topics will continue throughout news bulletins and other programmes on LBC", and that the audience would understand that "every presenter's show has a unique 'voice' and will examine the subject from a different point-of-view". LBC Radio further argued the name of the station, "Leading Britain's Conversation", appropriately referred to the flow of programmes and how conversations continued throughout the day, and that "[b]ig topics, such as significant political interviews, often form a theme for the day's programmes and are discussed periodically throughout the schedule by different presenters".

In Ofcom's view, however, we did not consider that the *Shelagh Fogarty* or *Iain Dale* programmes broadcast on 27 October 2017 could be said to have been editorially linked for the purposes of compliance with Rule 5.5 or Rule 5.9. Firstly, we did not consider that it had been sufficiently signalled to the audience on air that the *James O'Brien Show* hosted by Mr Khan was potentially linked to the later programmes broadcast, or that the material discussed in Mr Khan's Programme would be further discussed in those programmes⁷. We were mindful of the fact that the *Shelagh Fogarty* programme immediately followed the Programme presented by Mr Khan. As the Licensee had highlighted, a trail had been included within the presenter handover (Mr Khan saying that the *Shelagh Fogarty* programme was "coming up next"). However, in Ofcom's view, this wording would not have been enough to signify to listeners that Ms Fogarty's programme intended to debate the issues that had been discussed in Mr Khan's Programme, and specifically discussed in the Phone-in with Mr Corbyn. We acknowledged that the *Shelagh Fogarty* programme had some commonality of subject matter with Mr Khan's Programme, discussing both housing and mental health. However, the remainder of the programme focussed on developments in Catalonia and the apparent rise of white nationalism in the UK. The *Shelagh Fogarty* programme was also broadcast in a different timeslot to the Programme presented by Mr Khan (and to the regular programme presented by James O'Brien for which Mr Khan was guest presenting). The *Iain Dale* programme, broadcast later that afternoon, focused heavily on analysing the Phone-in and contained what the Licensee had described as considerable critique of both Mr Khan and Mr Corbyn. However, the remainder of the programme dealt with entirely separate issues to Mr Khan's Programme – further developments in Catalonia, the resignation of the deputy Prime Minister of Australia and abortion laws. Furthermore, Mr Khan's programme had made no mention at all in his Programme of this later programme presented by Iain Dale (which was transmitted three hours subsequently and constituted a separate editorial strand) or the fact that it was intended that Iain Dale's programme would include reaction to the Phone-in within it.

⁷ For example, Rule 5.6 of the Code states: "The broadcast of editorially linked programmes dealing with the same subject matter (as part of a series in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air".

For all these reasons, Ofcom concluded that the programmes presented by Shelagh Fogarty and Iain Dale did not meet the criteria to be regarded as part of a “series of programmes taken as a whole”. Therefore, the Licensee could not rely on these programmes as a means of preserving due impartiality in relation to the matters of political or industrial controversy and matters relating to current public policy discussed in the Programme.

Guest-presented editions of the James O'Brien Show in the week beginning 23 October

Finally, Ofcom examined the extent to which the five guest-presented editions of the *James O'Brien Show* which had been broadcast in the week beginning Monday 23 October 2017 could have been considered a “series”, according to the definition in the Code guidance.

We considered that a significant factor was that these programmes were intended to be part of an editorially linked series of programmes, with each of these programmes being broadcast in the same slot each morning for that week and all replaced the same regular presenter, James O'Brien. We also found that two programmes – those presented by Mr Rees-Mogg and Mr Maguire – had used a particular phrase to suggest a linkage. They had both included the statement “*Five Days, Five Voices*” to refer to the guest presenters who were replacing James O'Brien that week. However, the remaining three did not use this phrase – Mr Khan and Mr Umunna simply said they were “*standing in for James O'Brien*” or similar. The fifth guest presenter, Mr Peston, mentioned neither “*Five days, Five Voices*” nor James O'Brien, only using variations of “*This is me, Robert Peston, on LBC*”. Nevertheless, Mr Peston did alert listeners to the programme coming up in the same slot the following day (“*London Mayor Sadiq Khan will be in the chair from 10 tomorrow, you can't miss that*”), as did Mr Umunna earlier in the week (“*Tomorrow on Day 3 you've got Kevin Maguire...*”). Various statements were therefore included in all five programmes to signal to listeners that they were editorially linked, although their use and format was not consistent across the five programmes. In our view, this was likely to have made the extent to which listeners would have understood the programmes to have been linked more limited than the Licensee suggested. Nevertheless, we considered that, overall, listeners would have been likely to have recognised the programmes as part of the same long-running series of programmes facilitated, in this case, by guest presenters and would have understood them to be an “editorially linked” series of programmes.

We next considered whether the programmes “deal[t] with the same or related issues”. The Licensee had not put forward any arguments in this regard, only stating that “*a range of voices and opinions were heard across the week*” but not highlighting any unity in subject matter. We also noted that there was not clear or consistent signalling within the programmes broadcast that they were intending to deal with the same or related issues. Nevertheless, we took into account the format of the programmes which were all designed to be audience-led (featuring many calls, texts and tweets) and the fact that several of the guest presenters had referred to this structure⁸. The direction of the conversation in the programmes was therefore directed to a significant extent by the specific points raised by listeners. Ofcom did identify that all five programmes in fact had a certain amount of commonality on a number of subjects, including Brexit (which was discussed by all five programmes), sexual harassment (covered by three programmes), mental health issues

⁸ For example, Mr Rees-Mogg said “*this is Jacob Rees-Mogg in the LBC studios waiting for calls*” and Mr Umunna repeatedly stated variations of “*usually, when I'm on LBC I'm the one being asked the questions. But today I want to ask you the questions. And I want you to tell me what you think*”.

(addressed by two programmes) and housing (debated on two programmes). However, the other topics covered by the programmes varied: Mr Rees-Mogg's programme included discussions on the T Charge (emissions surcharge) and a speech on foreign diplomacy given by the Foreign Secretary earlier that day; Mr Umunna covered the rise in youth violence; Mr Maguire took calls on motoring fines and the Prime Minister's Questions which had taken place that day; and Mr Khan's Programme covered sport's role in society. The Phone-in in Mr Khan's Programme had also featured a broad range of discussions on: the status of Northern Ireland; tuition fees; Universal Credit; Mr Corbyn's leadership qualities; and his personal views on Prime Minister Theresa May.

Finally, we investigated whether the programmes had been broadcast "within an appropriate period and aimed at a like audience".⁹ We considered that the programmes had been aimed at a like audience, given that they occurred in the same slot each morning and all replaced the same regular presenter, James O'Brien. We also accepted that, since they had all been transmitted in the same calendar week, they could be considered to have been broadcast "within an appropriate period".

We concluded, for the above reasons, that the programmes could be considered a "series" for the purposes of assessing compliance with Rule 5.5, although it would have been helpful if the linkages had been signalled more clearly to listeners. We therefore went on to investigate whether due impartiality had been preserved over this series of programmes taken as a whole.

The Licensee argued that the individuals who had stood in for James O'Brien to present his show included a broad range of public figures with varying political allegiances, views and backgrounds and that "a range of voices and opinions were heard across the week". We were mindful that of the five guest presenters, two were members of the Labour Party (Mr Khan and Mr Umunna), one was a journalist who has close associations with the Labour Party (Kevin Maguire¹⁰) and a fourth was not expressly associated with any political party (Mr Peston). Nevertheless, we acknowledged that all five programmes included a range of viewpoints through calls from listeners to which the presenters reacted. We considered that, taken together, these various viewpoints broadly reflected the different sides of the various policy matters being discussed.

The Licensee had emphasised that the first guest presenter of the week, Mr Rees-Mogg, was a "prominent Conservative MP" and placed much reliance on his programme as a source of alternative viewpoints to those expressed by Mr Khan and Mr Corbyn. In fact, the only area of unity in the subject matter covered in the programmes presented by Mr Rees-Mogg and Mr Khan was that they had both included a discussion on Brexit. Aside from that, their range of focus had varied (as outlined above). We therefore found that the extent to which Mr Rees-Mogg had been able to "provide some very prominent coverage for the Conservative party" (and therefore of alternative viewpoints in general to the content of Mr Khan's programme) was more limited than the Licensee had contended. Nevertheless, we were in

⁹ Ofcom's Guidance on Section Five of the Code (paragraph 1.40) explain that the expression "aimed at a like audience" means that the linked programmes that make up a 'series' should be broadcast when it is likely that those who watched or listened to the first programme can choose to watch or listen to the second programme.

¹⁰ Kevin Maguire is a former Labour Correspondent for the Daily Telegraph and the current associate editor of the Daily Mirror. He also sits on the Advisory Panel of the Centre for Labour and Social Studies.

agreement with the Licensee that it had provided "some very prominent coverage for the Conservative party". Further, the programme presented by Mr Rees-Mogg had also provided coverage for the Liberal Democrats, featuring as it did an interview with Sir Vince Cable on Brexit (whose views in themselves were alternative to those of the guest presenter).

Taking these factors into account, Ofcom's Decision is therefore that the series of programmes broadcast in the James O'Brien slot in the week commencing 23 October 2017 were an additional method by which the Licensee reflected alternative viewpoints on these matters of political or industrial controversy and matters relating to current public policy.

Conclusion

The Licensee had highlighted to Ofcom the importance of the right of freedom of expression and the fact that Section Five of the Code acts as a restriction on this right. LBC Radio said that "numerous cases of the European Court of Human Rights have underlined that where political speech is involved – as in Sadiq Khan's LBC programme – this right is particularly important". As noted above, in carrying out its duties, Ofcom takes account of the audience's and broadcaster's right to freedom of expression but in doing so must seek to balance the broadcaster's freedom to discuss any controversial subject or point of view in their programming and the requirement in the Code to preserve "due impartiality" on matters relating to political or industrial controversy or matters relating to current public policy.

In this case, for all the above reasons, Ofcom's Decision is that due impartiality on matters of political or industrial controversy or matters relating to current public policy was preserved within the Programme presented by Mr Khan on 27 October 2017 and further across the series of programmes broadcast in the James O'Brien slot in that week. Our Decision is therefore that there was no breach of Rules 5.5 and 5.9.

However, while our Decision is that the whole Programme and the series of editorially linked programmes across that week did not breach the due impartiality rules, we are concerned by some of the aspects of the Phone-in with Mr Corbyn which was chaired by Mr Khan. In particular, we highlight that a format where the leader of a political party is questioned by a senior member of the same party carries a risk of the leader being able to set out his views on policy matters largely unchallenged. In such circumstances, it is the broadcaster's responsibility to ensure that due impartiality is preserved. We therefore remind LBC, and other broadcasters, that in circumstances where the interviewee and the chair are from the same political party, it is important that the Licensee takes particular care to ensure that other viewpoints are appropriately represented within the programme. If this is to be done across a series of programmes, this should normally be made clear to the audience on air. In this particular case, while overall the Programme was not in breach, we considered that the Phone-in at times strayed close to limits of the rules on due impartiality.

Given the above, we are therefore requesting that the Licensee attends a meeting with Ofcom to discuss its approach to compliance in this area when using guest presenters to conduct phone-ins standing in for professional radio hosts.

Not in Breach of Rules 5.5 and 5.9

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with 'Format' *Lochbroom FM Limited, April 2018 to present*

Introduction

Lochbroom FM is a commercial radio station licensed to provide a service for the Ullapool and surrounding areas of Scotland. It is a community-orientated, broad music and information station for English and Gaelic speakers. The licence is held by Lochbroom FM Limited ("Lochbroom" or "the Licensee").

Ofcom was notified by the Licensee that the service had not been broadcasting since April 2018. The Licensee is therefore not delivering a service in accordance with its published Format¹.

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

- "The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable".
- "The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period".

Ofcom therefore asked the Licensee how it had complied with these licence conditions.

Response

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

Decision

Provision by a licensee of its licensed service on the frequency assigned to it, is the fundamental purpose for which a commercial radio licence is granted. Ofcom has a range of duties in relation to radio broadcasting, including securing a range and diversity of local radio services which are calculated to appeal to a variety of tastes and interests, and the optimal use of the radio spectrum. This is reflected in the licence conditions requiring the provision of the specified licensed service. Where a service is not being provided in accordance with the licence, choice for listeners is likely to be reduced. In the case of a service being off air, the listener is clearly not served at all.

In this case, Lochbroom FM has failed to provide the service since April 2018 and is therefore in breach of conditions 2(1) and 2(4) of its licence.

¹ <http://www.ofcom.org.uk/static/radiolicensing/analogue/formats/al100667.doc>

As Ofcom considers this to be a serious and continuing licence breach, Ofcom is putting the Licensee on notice that this contravention of its licence will be considered for the imposition of a statutory sanction.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the commercial radio licence held by Lochbroom FM Limited (licence number AL100667)

In Breach

Failure to broadcast a service on a local radio multiplex *Connect Radio Limited (1 January to 1 September 2018)*

Introduction

Connect Radio Limited (“Connect Radio” or “the Licensee”) holds a local FM commercial radio licence for Kettering, Corby and Wellingborough and another for Peterborough (the “Licences”). The Licensee broadcasts the same programme service, Connect FM under both licences.

Connect Radio’s licence for Connect FM in Kettering, Corby and Wellingborough (licence number AL00043BA) was renewed by Ofcom on 20 November 2013 for 12 years and its licence for Connect FM in Peterborough (licence number AL000245BA) was renewed by Ofcom on 24 July 2015 for seven years. The Licences were renewed because the Licensee was providing the Connect FM service on the Northamptonshire and the Peterborough local radio multiplexes respectively.

In accordance with section 104A(12) of the Broadcasting Act 1990 (“the Act”), Part 2 of Connect FM’s Licences contain a condition (Licence Condition 2A) which requires that:

“The Licensee shall do all it can to ensure that the local digital sound programme service Connect FM is broadcast by means of the [Northamptonshire / Peterborough] local radio multiplex service throughout the renewal period”.

Ofcom received confirmation from Now Digital Limited (“Now Digital”), the licensee for both the Northamptonshire and Peterborough multiplexes, that the Connect FM service was removed from both multiplexes with effect from 31 December 2017.¹ This followed correspondence between Ofcom and Connect Radio in which Connect Radio had indicated its intention to cease transmission of Connect FM on both the Northamptonshire and Peterborough multiplexes when its existing contract with Now Digital expired on 31 December 2017.

Ofcom considered the matter raised issues warranting investigation under Licence Condition 2A of Connect Radio’s Licences. We therefore sought Connect Radio’s formal representations on how it had complied with this condition. We also requested that the Licensee provide its most recent accounts and those of its parent company Adventure Radio Limited, and its ultimate parent company Stockvale Investments Limited (“Stockvale”) to assist in our assessment of whether the Licensee had done “all it can” to remain on the DAB multiplexes.

Response

Connect Radio explained that it acquired the Kettering, Corby and Wellingborough and Peterborough licences in 2009 and subsequently commenced DAB transmission of the

¹ Prior to removing the service, Now Digital submitted two multiplex variation requests to Ofcom proposing to remove Connect FM from both multiplexes from 31 December 2017. These variation requests were approved on 28 December 2017.

service provided under both Licences². Its carriage contract with Now Digital was for a three-year term, expiring on 31 December 2017.

In October 2017 Connect Radio began contract negotiations with Now Digital. Connect Radio explained that it had expected to continue to pay on the same terms as under the previous contract, but was instead offered the following two options for continuing DAB transmission:

- a) a service which would be broadcast using the same technical characteristics as the previous contract, but at a price (the rate card price) that was significantly higher than the amount anticipated by Connect Radio; or
- b) a "pay as you go" option which would also entail a higher fee than the amount anticipated and which Connect Radio considered would significantly reduce the broadcast quality.

Connect Radio considered these options were "unreasonable" and that "no business would be able to sustain such increases". Connect Radio explained that since acquiring the Kettering, Corby and Wellingborough and Peterborough licences it had been making consecutive losses, which had been underwritten by Stockvale.

Connect Radio said it proposed an alternative option, which was not accepted by Now Digital. Ultimately an agreement could not be reached, and the contract was not renewed. The digital services therefore ceased on 31 December 2017.

The Licensee considered it had done "all it can to maintain a digital sound service". It emphasised that it is "a long-standing supporter of the DAB platform" and that it has "always sought to find ways in which [it] can deliver extended services for listeners, whilst at the same time working within the financial framework that is suitable for [its] business".

Now Digital's representations

Ofcom considered that Now Digital was a directly affected third party and we therefore gave it the opportunity to make representations.

Now Digital explained that the basis for which fees were calculated under the contract resulted in "significantly lower payments to Now Digital than both parties had expected". During negotiations in October 2017, Now Digital said that it made it clear to Connect Radio that it did not consider renewing on the same terms would be acceptable. Now Digital explained that negotiations continued throughout November and December 2017 regarding the continued provision of Connect FM on its two local multiplexes, however it said that Connect Radio maintained it was unable to pay the rate card price and ultimately the parties could not reach an agreement. Accordingly, the services ceased transmission on the local multiplexes on 31 December 2017.

Ofcom's Preliminary View

Having considered the Licensee's and Now Digital's representations, we wrote to Connect Radio setting out our Preliminary View that its decision to remove its services from both multiplexes was based on commercial reasons rather than any more fundamental practical

² The analogue licences held by Connect Radio allow for the same programme service to be provided under both. This single service was provided on both the Northamptonshire and Peterborough local multiplexes.

impediment outside of Connect Radio's control to maintaining the broadcasts. In these circumstances, we explained that our Preliminary View was that we were not persuaded that the Licensee had done "all it can" to ensure that the Connect FM service was broadcast on the Northamptonshire and Peterborough multiplexes throughout the renewal period in accordance with the requirements of Licence Condition 2A of the Licences.

We noted that in the event our final decision was to find that Connect Radio had breached Condition 2A, and as long as the Licensee's digital services remained off the Northamptonshire and Peterborough multiplexes, it would be a serious and continuing breach of this licence condition which would be considered for the imposition of a statutory sanction.

Connect Radio's representations on Ofcom's Preliminary View

Connect Radio reiterated that it had provided "longstanding support of DAB, having helped launch the Northamptonshire multiplex".

The Licensee considered that Now Digital provided it with "very short notice of the price change given the huge increase" and it found Now Digital "unwilling to negotiate from their position".

The Licensee submitted that it had made "considerable efforts" to provide a DAB service within the financial constraints within which it operates. It said that Now Digital's price increase "removed commercial viability for the station" and so its "only option to continue to provide services to the 49,000 listeners on FM was to discontinue [its] DAB provision". Connect Radio added that it had made further financial losses in the first six months of 2018.

However, the Licensee advised that following receipt of our Preliminary View, it had restored DAB services on the Northamptonshire and Peterborough multiplexes as of 1 September 2018.

Decision

Section 104A of the Act (as amended) enables the holders of analogue commercial radio licences to renew their licence provided that certain specific criteria are met, and in particular subject to the condition that the licensee also provides a digital programme service on a relevant local DAB multiplex throughout the renewal term. The purpose of this provision is to incentivise commercial radio stations to broadcast on the DAB radio platform.

In this case, it was therefore a fundamental condition of licence renewal that the Licences were varied to include Condition 2A which requires that the licence-holder "do all it can to ensure that the local digital sound programme service Connect FM is broadcast by means of the Northamptonshire [and Peterborough] local radio multiplex service throughout the renewal period".

In our view, the obligation "to do all [the licensee] can" to broadcast on the multiplex is a high one, reflecting a fundamental principle of the statutory framework for renewal of analogue licences and the commitments that were made to Ofcom when considering whether to renew or to re-advertise a licence. Licensees are required to do "all they can" to ensure that the service is broadcast on the relevant local multiplex – this means that they

should take steps to ensure that the service is broadcast on the relevant local multiplex in all but exceptional circumstances that are outside of the licensee's control.

Both Connect Radio and Now Digital provided us with commercially sensitive information regarding the detail of their previous contractual arrangement and their commercial negotiations for contract renewal. We acknowledged that Connect Radio ceased transmission on the relevant multiplexes due to significantly higher fees being proposed by Now Digital than was the case under their previous contract, and that this occurred after Connect Radio renewed its Kettering, Corby and Wellingborough and Peterborough licences. Connect Radio therefore would not have known at the time of licence renewal that it would face such an increase in fees when renewing its carriage contract with Now Digital.

However, Connect Radio would have been aware when it renewed the Licences that its contract with Now Digital was due to expire at the end of 2017. Given the particular circumstances of this contractual arrangement, we did not consider that it was reasonable for Connect Radio to assume this contract would necessarily be renewed on the same terms.

We understood the Licensee's position to be that it was not financially sustainable for it to stay on the DAB platform at the increased fee rate, given it had been making a loss since acquisition of the Licences. However, we also understood that Stockvale has been underwriting its losses until now, and that in its accounts for the period ending December 2017, Stockvale had a turnover of £14.7 million and made a profit of £1.4 million.

In these circumstances, we were not convinced that it would in fact be financially unsustainable for Connect Radio to continue broadcasting on the two local multiplexes.

Further, as noted above, the requirement to maintain a digital service broadcast on the local multiplex arises from the relevant statutory scheme, which has the objective of promoting the take-up of digital radio. This objective would not be furthered if Connect Radio were able to cease providing a digital service in anything other than exceptional circumstances that are outside the licensee's control. In this case and in these particular circumstances, we are not satisfied that the increase in fees for the relevant multiplexes constituted such exceptional circumstances.

We considered that Connect Radio's decision to remove its services from both multiplexes was based on commercial reasons rather than any more fundamental practical impediment outside of Connect Radio's control to maintaining the broadcasts. In these circumstances, we were therefore not persuaded that the Licensee had done "all it can" to ensure that the Connect FM service was broadcast on the Northamptonshire and Peterborough multiplexes throughout the renewal period in accordance with the requirements of Licence Condition 2A.

Although the Connect FM digital service is now back on the Northamptonshire and Peterborough multiplexes, it was off-air for eight months. By failing to ensure that the Connect FM digital service was broadcast on the Northamptonshire and Peterborough multiplexes from 1 January to 1 September 2018, our view is that Connect Radio breached Condition 2A of the Licences during that period.³

³ In issue 300 of Ofcom's Broadcast and On Demand Bulletin published on 7 March 2016, we recorded a 'Resolved' decision in relation to a similar case involving Celador Radio Ltd. However, in that case, the service was not broadcast on the local DAB multiplex for a period of one month, as opposed to the eight months in this case (https://www.ofcom.org.uk/data/assets/pdf_file/0012/51402/issue_300.pdf).

However, in the particular circumstances of this case, including that this breach is no longer ongoing because the digital broadcasts have recommenced, Ofcom does not intend to consider the imposition of a statutory sanction on the Licensee.

Breaches of Licence Condition 2A of the Local Analogue Commercial Radio licences for Kettering, Corby and Wellingborough (licence number AL00043BA) and Peterborough (licence number AL000245BA)

Broadcast Fairness and Privacy cases

Upheld

Complaint by the Baaj Group, made in its behalf by Mr Manjit Singh *Sri Guru Singh Sabha Election Debate, Sangat TV, 29 September 2017*

Summary

Ofcom has upheld this complaint made by Mr Manjit Singh on behalf of the Baaj Group¹ of unjust or unfair treatment in the programme as broadcast.

The debate programme included representatives from two of the three groups standing for election to the management committee of the Sri Guru Singh Sabha Gurdwara (the "Gurdwara") in Southall, west London. No representatives of the third party, the Baaj Group, appeared in the programme. The presenter made repeated requests for the Baaj Group to contribute to the election debate. The Baaj Group complained that its representatives were denied access to the programme studio and prevented from taking part in the debate.

Ofcom considered that the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to the Baaj Group.

Programme summary

On 29 September 2017, Sangat TV broadcast an edition of a debate programme entitled *Sri Guru Singh Sabha Election Debate*, in which representatives of the groups discussed their manifestos for the forthcoming Gurdwara management committee elections to be held on 1 October 2017.

As the programme was broadcast in Punjabi, an English translation was prepared by Ofcom and provided to the complainant and the broadcaster for comment. Sangat TV did not comment on the translation, however, the complainant Mr Singh did provide comments. Ofcom considered Mr Singh's comments and made amendments where appropriate. A final translation was sent to the parties who were informed that Ofcom would use the final translation for the purposes of its investigation.

Before introducing the representatives from the two other groups standing for election to the management committee, the Sher Group and the Tera Panth Vasey Group, the programme's presenter said:

"Let me introduce the panellists, but first I'd also request that a nominee of the Baaj Group, who has been unable to arrive thus far, come onto the programme. I would urge the Group, also on behalf of the community to come onto the show with no personal issues held by anyone. Tomorrow there will be another programme. Whatever you like to say, come onto the programme and feel free to give a positive message to the

¹ One of three groups standing for election to form the new management committee of Sri Guru Singh Sabha Gurdwara, Southall. The other two groups were the Sher Group and Tera Panth Vasey Group.

community. This is my plea to any nominee of the Baaj Group, please come to the studio and join us in our programme to which you have been invited to share your views".

The presenter asked the Sher Group, which formed the incumbent management committee of the Gurdwara at the time, about what the Group had achieved during its tenure. The presenter said that he had asked the panellists what their "achievements are" and stated that the broadcaster was "neutral". The presenter added:

"It is important to have all three groups. I would like to repeat my invitation to the Baaj Group to join us as soon as possible, within ten to 15 minutes, if possible. We should have the three groups here with us. We will only have positive discussion and no conflict or negativity. We want everyone to come under one banner on Sangat TV. Who the community want to serve them is another matter, which you will find out soon. Let's not create conflict between us and if we can avoid this, it's a victory for our faith".

Later in the programme, after further discussion with the Sher Group representatives, the presenter said:

"Okay, let's give others a little time too. Let's keep our discussions positive. I will also repeat my request to the Baaj Group to join us on the programme, as I believe that we are all brothers. The question of who wins or loses is for the community to decide. The TV channel is only interested in bringing the debate to your home. Whoever comes in to power, we only want what is best for the Gurdwara".

The presenter then asked a representative from the Tera Panth Vasey Group the reason the community had not voted for it to run the committee in the past. The presenter also asked how it would run the Gurdwara differently if it were elected. The presenter then commented: "I wish that others joined us even though the election is going to happen regardless".

The presenter and representatives from the two groups debated further until the presenter interrupted and said:

"I'm going to ask you to pause for five minutes, as the Baaj Group have arrived. I'm instructed to take a break and then we can listen to their side as well".

The programme did not go to a break and the presenters and representatives from the two groups continued to debate. No further reference was made to the Baaj Group and the programme ended without the Baaj Group representatives appearing on the programme.

Summary of the complaint and the broadcaster's response

The complaint

Mr Singh complained that the Baaj Group was treated unjustly or unfairly in the programme as broadcast because the programme gave the incorrect impression that the Baaj Group had been unwilling to participate in the programme, when in fact, its representatives had been denied entry to the studios and prevented from appearing in the programme.

Mr Singh said that the presenter had stated that the Baaj Group had arrived at the studios part-way through the programme, when in fact, the Baaj Group's representatives had been

at the studios before the programme started. He said that the presenter made it appear that the programme was being “accommodating” and “neutral” towards the Baaj Group by repeatedly inviting it to contribute throughout the programme. By not allowing the Baaj Group representatives to contribute, Mr Singh said that viewers would have been led to conclude that the Baaj Group was being “unreasonable” and “negative”, and that it was in some way responsible for there being conflict between the various groups.

Broadcaster's response

Sangat TV said that only contesting candidates from each group were to qualify as acceptable representatives for the programme. It said the representatives who were not contesting candidates would only be allowed to participate on the mutual agreement of the other groups taking part. The broadcaster said that Mr Singh attended the studio with a “non-contesting representative” for the Baaj Group which was objected to by other participants.

Sangat TV said that instead of amicably participating in the debate, the Baaj Group representatives “got engaged in an argument with the volunteer programme makers which resulted in the programme being ‘cancelled’”². It said that the debate was “rearranged” for the following day. The broadcaster said that despite what Mr Singh said in his complaint on behalf of the Baaj Group, the programme makers had tried their best to be as fair as possible in the circumstances.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint made on behalf of the Baaj Group of unjust or unfair treatment in the programme as broadcast should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. The complainant did not make any representations, but the broadcaster did and are summarised below.

Sangat TV's representations

The broadcaster maintained that the programme makers had clearly explained the terms of reference to all contesting parties that if any party decided not to take part in the debate, the debate would still go ahead with the eligible participating candidates.

Sangat TV said that the programme makers had confirmed to it that the representatives of the Baaj Group did not turn up on time at the studio when the programme was due to start. It said that they only turned up roughly half way through the programme when repeated calls were made for them to take part. Sangat TV said that the claim that the complainant and representatives of the Baaj Group were prevented from entering the studio was not true. It denied any “kind of conspiracy to defame the Baaj Group”.

Sangat TV said that the presenter was informed about the arrival of Baaj Group representatives in the studio, following which, the break was announced so that the debate may be resumed with all three parties on board. However, it said that the complainant became disruptive which led to the debate being cancelled and rescheduled for the following

² On 30 September 2018, the presenter, referring to the incident on 29 September 2018, stated: “...There was a dispute in which the non-candidate was asked not to sit [on the debate panel], and the candidate was invited to participate. They both decided to leave...”.

day in which all three parties participated. Sangat TV said that it did "the best we could under these circumstances".

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 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, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a translated transcript of it, and both parties' written submissions, including Sangat TV's representations on Ofcom's Preliminary View.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

Ofcom considered Mr Singh's complaint that the programme gave the incorrect impression that the Baaj Group had been unwilling to participate in the programme, when in fact, its representatives had been denied entry to the studios and prevented from appearing on the programme.

In considering this complaint, we had particular regard to Practice 7.9 of the Code:

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

Ofcom's role is to consider whether, by making repeated requests for representatives of the Baaj Group to participate in the programme and omitting to explain to viewers that its representatives had attended but would not be taking part, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to the Baaj Group. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they were presented in the programme. Therefore, Ofcom

began by considering whether the matters complained of had the potential to materially and adversely affect viewers' opinions of the Baaj Group in a way that was unfair.

We took account of what the presenter said about the Baaj Group and, in particular, what was said about its participation in the programme. From the detailed "Programme summary" above, the presenter made three requests in the programme for the Baaj Group to take part in the debate, and a fourth request was made by the presenter that "*I wish that others joined us...*", a reference again, in our view, to the Baaj Group. Also, later in the programme, the presenter said that representatives of the Baaj Group had "arrived" and indicated that they would be taking part. However, no representatives of the Baaj Group appeared on the programme and no further reference to them was made.

Ofcom considered that the repeated requests by the presenter for representatives of the Baaj Group to participate in the programme had the potential to materially and adversely affect viewers' opinions of the Baaj Group. This was because the comments potentially gave the impression that the Baaj Group had chosen not to take part in the programme and that it did not want to engage in debate about the election issues and the management of the Gurdwara. Further, viewers were told that representatives of the Baaj Group had eventually arrived at the studios, but no further reference was then made to them. This, in our view, was likely to have potentially created an adverse inference in the minds of the viewers as to why they did not then appear.

We recognised that the programme was broadcast live, and we understand that participants can sometimes make unexpected comments, or circumstances may arise that prevents contributors from taking part, as was the case in this instance. However, in such circumstances, broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code. It must not mislead viewers or portray people or organisations in a way that is unfair.

Ofcom took into consideration Sangat TV's representations on the Preliminary View and its account of what happened in the studio at the time. However, in our view, irrespective of the circumstances which led to the Baaj Group representatives not taking part in the programme, it was incumbent on the broadcaster to have fairly represented their absence from the programme. We considered that the broadcaster, who was aware of the actual situation at the time of broadcast, failed to inform viewers that Baaj Group representatives had in fact attended the studios, but that they would not be participating in the debate, and the reason why. Instead, the broadcaster gave the impression to viewers that the Baaj Group had chosen not to take part in the debate despite having been invited them to do so. This, we considered, created a misleading and unfair impression of the Baaj Group to viewers.

Taking all these factors into account, we considered the comments made by the presenter and the omission of any explanation for the absence of the Baaj Group representatives from the programme, had the clear potential to materially and adversely affect viewers' opinions of the Baaj Group in a way that was unfair. Therefore, in the particular circumstances of this case, Ofcom considered that the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme, and that this resulted in unfairness to the Baaj Group.

Ofcom has upheld this complaint made on behalf of the Baaj Group of unjust or unfair treatment in the programme as broadcast.

Upheld

Complaint by Mr Amrik Singh Sahota *Gurdwara Miri Piri, MATV, 29 January 2018*

Summary

Ofcom has upheld this complaint made by Mr Amrik Singh Sahota of unjust or unfair treatment in the programme as broadcast.

The programme discussed a demonstration which had taken place outside the Indian Embassy in London on 26 January 2018. During the programme, allegations were made about the complainant, Mr Sahota, and his role in the demonstration.

Ofcom considered that:

- the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to the Mr Sahota.
- the broadcaster should have provided Mr Sahota with an appropriate and timely opportunity to respond to the allegations being made in order to avoid unfairness to him.

Programme summary

On 29 January 2018, MATV broadcast an edition of its discussion programme *Gurdwara Miri Piri*, which was presented by Mr Jaswant Singh Thekedar and featured Mr Parminder Singh Bal as a guest. Viewers were encouraged to call in to contribute to the discussion, the topic of which was a demonstration which had taken place outside the Indian Embassy in London on 26 January 2018.

As the programme was broadcast in Punjabi, Ofcom provided an English translation to the complainant and the broadcaster for comment. The broadcaster did not make any comments on the translation, however, Mr Sahota did. Ofcom considered Mr Sahota's comments and a final translation was sent to the parties who were informed that Ofcom would use this translation for the purposes of the investigation.

The presenter introduced the programme by explaining that:

"Last week, on the 26 January outside the Indian embassy, there was a demonstration. In it, the people who call themselves Khalsa¹, they weren't there. Then there were the part-time Khalistanis, who brought about ten or 15 people. It looks as if the groups that Lord Nazir Ahmed had organised and paid for to come also included a van for the Khalsa group. This is to the extent that even the Nishan flags, which we regard as symbols of our faith, they were made by a firm that didn't know that they are not supposed to be yellow, but saffron gold. Also, the flag is triangular and not square. The flags were square with

¹ A group of people within the Sikh faith who follow the tenth Sikh Guru, Guru Gobind Singh. In this context, the reference is about the Sikh Indian separatist movement that calls for an independent state for the Sikh people.

Khalsa written on them, and the colour was pure yellow. If we look at the background to this, it's the person [i.e. Mr Sahota] who is the partner of Lord Nazir these days. When he opened a TV station in Birmingham, whether he was Khalsa or not, there was a lot of support behind it from the Khalistanis. He did not hire any Khalistani himself, he went for the Vande Mataram [an Indian national song] people. Many people said to him, you're Sikh, you could have kept some people from the faith.

In those days, there were two TV stations for the Punjabis. One was in Hayes and the other was in Birmingham. His TV station never had much Sikh discussion on it. The Khalistanis didn't get much airtime on his channel. Things turned around; Dr Jagjit passed on. The pro-independence movement needed someone here and his station had failed, his money had run out. A member of parliament in his area had been elected from their side. He got Lord Nazir Ahmed involved. Basically, if the money comes in then it's Khalistan and if the money isn't coming, then it's Hindustan. He's got a lot out of his friends too. All we want to ask is, what right does he have to change the flag of the Sikh religion? What right does he have to make yellow flags? That day, the way a 100 or 150 people stood up to these people to defend India. They cried out to stop terrorism in our country. Such circumstances can create serious conflict. Lord Nazir Ahmed never turned up to any demonstration and is unlikely to in the future. He has just stirred things up. When he talks about Kashmir, has Pakistan given independence to Kashmir on its side? Has Kashmir become an independent country? They call it Azad Kashmir. How is it Azad [i.e. free]? We haven't seen their freedom. It is just like the other states in Pakistan, there is no independence.

If you look at the background, Kashmir is for Kashmiris, just as Punjab is to Punjabis. Kashmir was a state under Sikh rule. When it was captured through an act of betrayal, a trustee took over the Sikh rule [citing an old ruler]; they said we'll take it on trust until the ruler reaches maturity. Then another betrayal happened. Kashmir was given to the nobleman Dogra through an award. We maintain today, Kashmir is the state of the Sikh people. It is part of Sikh rule and it cannot go to another country. When Sikh people say that Kashmir should be freed, then they are denying the rights of the Sikhs. Sikh people might be the agents of others or take money for Khalistan, but they know nothing of religion, history or the Sikh rule. This poor man [i.e. Mr Sahota] grew up here and started a business. Now his business depends on them too. We request to him that we've been here 36 or 37 years too and we know all the Khalistanis. You are running your business with these people from another country; shut it down. Let the Sikh symbol that is golden saffron remain that way. If you don't step back and if you force yourself further onto the Sikh faith, then the Sikh people will mark you for it. You are starting a new fight alongside Lord Nazir Ahmed and starting a new front of terrorism. This is not in the interests of Sikh people, or any other people. We will talk about this and how these people are misleading others off the strength of ten or 15 people. The people who protested you were a 100 to a 150. You were ten to 15 only. You should have had more people. Your ten people fitted in a van from Birmingham and you came to this rally on the basis of a lie. Mr Bal, the way this person has done all this; I also recall his business ways where their families have brought Guru Granth Sahib Ji from India here, all in the name of business".

Mr Bal said:

"You see, when he opened the channel, whether it's the people from the Vande Mataram party, the Lahore people or Lord Nazir's yellow flags; he never knew which one was right. The Vande Mataram party is a TV party. His TV station failed; he never raised Sikh issues.

The saddest thing is people are misled and he betrays his nation; these are just five or seven people. Amongst the Kashmiris, those people are involved who were militants and had to flee Kashmir. Don't forget that on the Indian side there were 250 odd. As for this lot, they didn't just come out on the 26 January, but they also carried out new protests on the streets of London. It is a new form of protest and militancy. Nazir Ahmed was the one who promoted them. Mr Sahota and Ranjeet Ahmed in their Khalistan van; I noted it's a Pakistani or Kashmiri that brought them. They were in Westminster, and I thought maybe they are planning a new Khalistan in the style of Lahore. A gift of this van was presented to Ranjeet, to lure him. He has no idea about the Sikh flags with those yellow colours. There are one and a half million Sikh people living in the United Kingdom.

The most dangerous thing here is that these few people, five or seven, put themselves forward, and in their turbans stood there, all in the name of Sikhs. If there was trouble, it would have been the Sikh name involved. Mr Sahota can sometimes be Vande Mataram, sometimes he is Congress, and sometimes he is friends with Nazir Ahmed. The other thing is that London Mayor, Sadiq Khan, hasn't taken notice of this issue. 250 people gather in London and there are two police officers over there. If there is a fight, there is no equality in numbers. You have a few on one side, Lord Nazir's men only. This game that's being played sometimes looks good on the street, but in '84 it led to violence on Southall Broadway. On the one hand, we see a demonstration and we like to join it. On the other hand, when you have a 1000 against five, for example [inaudible] in London it is serious. It's terrorism. You can have a march and move on, and it's been happening for many years. But now, you have the English Defence League doing rallies too. In South Africa, the liberation forces, their liberation front, Mugabe and Mandela. There was never a demonstration as such. But here it's become the norm and Nazir Ahmed has started this off in London. Any terrorism can be brought about as result. We must be careful as India and Pakistan have sensitive relations; there is the Kashmir issue. They [the Azad Kashmiris] have never looked at themselves in terms of freedom. They have made an assembly in Islamabad for their side of things. We say, fix the situation over there before raising issues here.

In London, our community, the Muslim community, Hindu or any Asian communities, all exist together. Now if someone stirs things up between the communities here, the Mayor should investigate it. He won votes from these people. These two brothers get a van; Mr Sahota and Mr Ranjeet, they come and spread lies. It's terrible in a diaspora of hundreds of thousands that a couple of people can do these things. People should sit in Gurdwaras or hold conferences on such matters; talk about the issues. But to create a spectacle like this, this isn't their right. It creates problems for the Sikh people, who will only think they are working for some other country's agency. They are working for Nazir Ahmed on the pretext of raising this issue. All of this won't be seen well by the Sikh people. If there is any conflict in the future, the problem could become a big one".

The presenter said:

"I was recalling how one of the [inaudible] agents, who sadly has passed away, they looked for a replacement for him. We will look after you like we looked after him, they said. They found this person [Lord Nazir Ahmed], semi-retired and not exactly hardworking. They figured 'we could get a bit of income...'"

The presenter took a call from a viewer who said that "The Khalistan idea should be stopped" because there was nobody who was "truly Khalis [i.e. pure] from the heart, asking for

freedom". Mr Bal said that "...This sort of ideal has faded away for the Sikh people and now everyone has opened their business".

Mr Bal said:

"Don't these people feel strange, being four or five, trying to represent a million-and-a-half Sikh people? You are siding with people who were kicked out of Kashmir and created trouble across India. Think about others when you put forward your own position. There are conferences that go on where people get together and consult over issues. These four people have done this before in the UK. In Nottingham and in Southall Broadway, where they caused trouble. This isn't one man's doing, it is off the back of two countries in conflict".

The following exchange then took place between the presenter and Mr Bal:

Presenter: *"Mr Bal, as for the protest, this is nothing new. Secondly, he [i.e. Mr Sahota] has no idea of religious history, he doesn't know the faith, he's been kicked out of the Gurdwara".*

Mr Bal: *"A commission has been formed over it".*

Presenter: *"If you look at it, the flag has been turned yellow. A new problem has been raised for the Sikh people".*

Mr Bal: *"What he's already got ready-made and free is the van. A new van. The man [i.e. Lord Nazir Ahmed] is saying 'I've prepared this van for you'".*

Presenter: *"And then he took his name, saying this is Ranjeet's van. It's been prepared for you".*

Mr Bal: *"What a big thing for the people to hear".*

Presenter: *"Haven't the Sikh people got their own money?"*

Mr Bal: *"Haven't the Sikh people got money, exactly? These are people available for auction. They are agents with a price tag. They are welcome to our panel and discuss issues with us, whether its Nazir Ahmed or the front people. They can come and talk with us about history and where they stand".*

Presenter: *"Mr Bal, today he's changed a triangle to a square. Tomorrow, he could change other shapes and do anything. Who are they to do these things?"*

The presenter and Mr Bal discussed Lord Nazir Ahmed and the fact that he allegedly called himself *"Pakistani or Kashmiri"* which the presenter said was *"two faced"*. Mr Bal said that Lord Nazir Ahmed was creating *"division with communities"* and should *"be sent to occupied Kashmir"*.

The presenter then said:

"The other thing is, the money he spent [i.e. the money used to fund the demonstration], 15 or £20,000. Where did this money come from? Has it come from Pakistan? Have Kashmiris given this money? Tell people and account for it".

Mr Bal stated that it fell under the jurisdiction of the Mayor of London to open an investigation into the demonstrations. He explained that:

"This type of hatred on the streets of London, the kind of front this person has opened, it can cause much harm in the future. Our Sikh people can be hurt or the other side. Up until today, the English Defence League has done rallies but even they haven't generated this kind of an atmosphere".

Mr Bal said that the House of Lords should also investigate Lord Nazir Ahmed and the presenter agreed, stating that the demonstrations had *"created hatred amongst the community"*.

After a break, the discussion resumed:

Presenter: *"How much do you think was spent on this? All these flags, people to hold the flags. They must have been paid".*

Mr Bal: *"They were hired, yes. The man who used to sing Vande Mataram songs 25 years ago [i.e. Mr Sahota], he was hired to be there. A couple of others were also hired to be there".*

Presenter: *"There's that story of pigeons. When you have some of your own pigeons in the cage. That's what they did. They had their own pigeons".*

Mr Bal stated that, by funding the demonstrations, Lord Nazir Ahmed had used *"local tax and state funds"* to carry out *"new terrorism"* on the streets of London. Mr Bal explained that Lord Nazir Ahmed should be investigated under *"racial hatred law"* and accused him of *"spreading hate"*. He reiterated that it was the Mayor of London who was responsible for investigating the protests, explaining that *"There were only two police officers at the demonstration and anything could have happened. Things could have escalated"*.

The presenter said:

"We should demand that Lord Nazir Ahmed be inquired into, to investigate how much he spent on this, where the money came from, and who was involved. Sikh people should look at the fake Khalistani [i.e. Mr Sahota] who is neither Khalistani nor true to his faith. He switches between Khalistan and Hindustan as it suits him. His business is bad these days, so he has been looking around for financial opportunities. He has also caused trouble at the Gurdwara and now he is causing trouble in the community. The worst thing he has done is that he has disrespected the symbol of our faith. He changed the colour of the flag. He is not a Sikh, he is of bad blood. The flags that were supplied for so-called Khalistan, and we have seen Khalistanis over the last 20 years, but none with this change to the flags. The handful of people who came in his van stayed in the background. When they saw his activities, they stayed in the background. We would say don't even give this man the time of day. Wherever he gets money, he becomes friends and becomes an agent. There was a man who would take five pounds per slogan and make his daily income that way. That poor fellow died, but now we have this person. Sikh people have

seen that this man is anti-Sikh, anti-Khalistani, anti-faith and we should not give him the time of day”.

Mr Bal said:

“A Sikh would never accept anyone preparing a different kind of turban. It is proven that this person [i.e. Lord Nazir Ahmed] brought gifts and things for these people [i.e. the organisers of the demonstration, including Mr Sahota]. The way these gifts were accepted, it is dishonourable. They should go and repent in the Gurdwara for this. If such people don't change and go, do this politics in other countries and not here...”.

The presenter said:

“It is the right of Sikhs to demonstrate, but we should do it on our own, not hired by others or by being paid or enslaved by others”.

Mr Bal said:

“There used to be a Punjab Association, Punjabis and Sikhs had a link and they took lead in demonstrations. Now we have a different breed. When there was a vote for the [Indian] Emergency, Sikh people protested all over the world. Punjabis and Sikh organised these very well. These people don't even know their history. They have sold out. Why not do it openly in Kashmir? Go and do it over there and make that your base. There is land there and Gurdwaras there. They can run their affairs over there. They enjoy hospitality in Lahore, they enjoy Nazir Ahmed's friendship. However, we think this person is not fit to be called a Lord”.

The presenter and Mr Bal moved on to further discuss Lord Nazir Ahmed, who the presenter said, *“creates rifts within the Asian community”* and *“should be stopped”*. Mr Bal expressed concern that Lord Nazir Ahmed's actions *“could cause disaster”* and emphasised that he was answerable to the taxpayer for his *“illicit activities”*.

The discussion came to an end and there was no further reference to Mr Sahota in the programme.

Summary of the complaint and the broadcaster's response

The complaint

- a) Mr Sahota complained that he was treated unjustly or unfairly in the programme as broadcast because it included a number of false statements which were intended to “unfairly defame” him. In particular:
- that he took money from a UK Parliamentarian, Lord Nazir Ahmed, to fund his campaigning work for the Khalistan cause;
 - that he was expelled from Guru Nanak Gurdwara, Smethwick;
 - that his business was failing and that he was taking money off others; and
 - that he spread “hatred amongst communities”, with the object of causing arguments and violence.

Mr Sahota said that he was a person with good standing in the Sikh community, which he would not allow to be discredited by the “false and malicious” allegations.

- b) Mr Sahota also complained that he was not given an appropriate and timely opportunity to respond to the above allegations being made in the programme.

The broadcaster's response

MATV said that the programme had become "a flagship" programme to discuss Sikh community issues.

It said that programme discussed a protest organised by Lord Nazir Ahmed outside the Indian High Commission in London on 26 January 2018, India's "Republic Day". It said that around ten to 15 "Sikhs" had attended in support of Lord Nazir Ahmed and had been "shouting Anti India slogans and some slogans on Kashmir". MATV said that it was Lord Nazir Ahmed who was the focus of the discussion during the programme. MATV said that it failed to understand how Mr Sahota had assumed that he was the one who was "blamed" and "singled out" as his name was never mentioned during the programme. The broadcaster said that if Mr Sahota was a "separatist", then it had no knowledge of it and said: "where is the question of his abuse?" It said that it was for Mr Sahota to prove that he had been "abused personally".

MATV also said that if Mr Sahota "says he was not removed from Smethwick Gurudwara" then "why he is worried about this issue". It said that only someone who had "...been removed should be worried and making complaint". MATV said that it did not consider that there was "solid substance" to Mr Sahota's complaint.

Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Neither party made any relevant representations in relation to the Preliminary View.

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 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, a translated 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"). In addition to this rule, Section Seven (Fairness) of the Code contains

“practices to be followed” by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) Ofcom considered Mr Sahota's complaint that he was treated unjustly or unfairly in the programme because it included a number of false statements and which were intended to “unfairly defame” him.

In considering this complaint, we had particular regard to Practice 7.9:

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

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

We first considered whether Mr Sahota was identifiable in the programme, given that the broadcaster said in its response that the focus of the programme was on Lord Nazir Ahmed and that the complainant was “never mentioned”. Having carefully examined the English translation of the programme, it was clear to us that Mr Sahota was, in fact, named by Mr Bal three times in the programme. It was also clear to us that in the context in which Mr Sahota was named by Mr Bal, other references were made by Mr Bal and the presenter to Mr Sahota despite him not being named explicitly in each instance. We also considered that it was unlikely that anyone would associate themselves with the comments made in the programme, for any other reason than a genuine belief that they were the subject of the comments made. Therefore, taking these factors into account, we took the view that it would not be unreasonable for Ofcom to consider the comments complained of did relate to Mr Sahota. Being satisfied that Mr Sahota was identifiable as the subject of the allegations, we therefore went on to consider whether the comments made in the programme resulted in any unfairness to him.

As set out in the “Programme summary” above, the presenter and Mr Bal both made a number of allegations about Mr Sahota. While the full extent of these allegations and references to Mr Sahota are set out in the “Programme summary”, we took account particularly that Mr Bal stated that “*Mr Sahota and Mr Ranjeet, they come and spread lies...*” and that “*...these people [including Mr Sahota] are available for auction. They are agents with a price tag...*”. He also stated that the demonstration had “*created hatred amongst the [Sikh] community*”, and that “*They were hired. The man who used to sing Vande Mataram songs 25 years ago [i.e. Mr Sahota], he was hired to be there...*” He also said that Lord Nazir Ahmed “*...bought gifts and things for these people [i.e. the*

organisers of the demonstration, including Mr Sahota]. *The way these gifts were accepted, it is dishonourable*", and that they had "sold out". Ofcom also took account of remarks made by the presenter about Mr Sahota, in particular, that "he [Mr Sahota] has not idea of religious history...he's been kicked out of the Gurdwara", and that: "Sikh people should look at the fake khalistani [Mr Sahota] who is neither khalistani nor true to his faith...his business is bad these days, so he's been looking around for financial opportunities. He has caused trouble at the Gurdwara and now he is causing trouble for the community". The presenter also stated that: "There was a man who would take five pounds per slogan and make his daily income that way. That poor fellow died, but now we have this person [Mr Sahota]. Sikh people have seen that this man is anti-Sikh, anti-Khalistani, anti-faith and we should not give him the time of day".

Ofcom considered that the language used by the presenter and Mr Bal was accusatory in nature and would have left viewers in no doubt that they claimed that Mr Sahota, with others, had been "hired" and accepted "gifts" to stage the demonstration and that he was complicit in creating "hatred" in the Sikh community. We also considered that the comments in the programme would have suggested to viewers that Mr Sahota was disloyal and willing to change his allegiances for financial gain. Further, we considered that viewers would have understood that his behaviour was motivated partly by the claim in the programme that "his business is bad these days". The comments also questioned Mr Sahota's religious faith and claimed that he had been "kicked out of the Gurdwara". In our view, these comments suggested to viewers that Mr Sahota had acted inappropriately and dishonestly. Therefore, given the serious nature of these allegations, we considered that the programme had the potential to materially and adversely affect viewers' opinions of Mr Sahota.

We then considered whether the presentation of these comments in the programme as broadcast resulted in unfairness to Mr Sahota. Ofcom acknowledges broadcasters' right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We understood that the programme was broadcast live, and we recognise that contributors can sometimes make unexpected comments that have the potential to create unfairness. It is Ofcom's view, therefore, that for live programmes it may be, but is not always, possible for the broadcaster to obtain responses from others prior to, or during, the programme. However, in such circumstances, broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code. This may include briefing any studio guests about fairness requirements in advance of the programme, as well as ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation. The importance is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom then assessed what steps, if any, the broadcaster took to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair

to Mr Sahota. MATV provided no evidence that it had taken any reasonable steps before the live broadcast in this regard, for example, by advising Mr Bal to take care about any allegations he might make. More significantly, during the programme itself, the presenter also contributed to the allegations made against Mr Sahota. No attempt was made to place his comments or those made by Mr Bal in any form of context by explaining, for instance, that they only reflected their personal views. Further, Ofcom took into account that nowhere in the programme was anything said to balance or place into appropriate context the comments made about Mr Sahota, nor did the programme include the viewpoint of Mr Sahota in response to the claims. Therefore, in our view, the comments made about Mr Sahota in the programme were presented as unequivocal facts. Given this, we considered that these comments amounted to significant allegations about Mr Sahota which had the potential to materially and adversely affect viewers' opinions of him and which were presented in the programme in a way that was unfair to him.

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

- b) We next considered the complaint that Mr Sahota was treated unjustly or unfairly in the programme because he was not given an appropriate and timely opportunity to respond to the above allegation made in the programme.

In considering this aspect of the complaint, we had particular regard to Practice 7.11:

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

For the reasons given in head a) above, we considered that the comments made in the programme amounted to significant allegations about Mr Sahota. Therefore, in accordance with Practice 7.11, the broadcaster should have offered Mr Sahota an appropriate and timely opportunity to respond to it in order to avoid unfairness. We understood that MATV had not sought Mr Sahota's response to the allegations and we considered that its failure to provide such an opportunity to do so was unfair to Mr Sahota.

Ofcom has upheld Mr Sahota's complaint of unjust or unfair treatment in the programme as broadcast should be upheld.

Not Upheld

Complaint by Mr Ahmad Noorani, made on his behalf by Mr Baseem Chagtai

Headline News, New Vision TV, 24 July 2017

Summary

Ofcom has not upheld this complaint by Mr Ahmad Noorani, made on his behalf by Mr Baseem Chagtai of unjust and unfair treatment and unwarranted infringement of privacy in the programme as broadcast.

The news bulletin included an item in which comments were made about Mr Noorani's journalistic work for a newspaper article.

Ofcom found that:

- The broadcaster took reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Noorani.
- The comments made in the programme did not amount to significant allegations of wrongdoing about Mr Noorani. Therefore, it was not necessary for the broadcaster to have provided him with an appropriate and timely opportunity to respond to them.
- There was no unwarranted infringement of Mr Noorani's privacy in the programme as broadcast, because, in the particular circumstances of this case, Mr Noorani did not have a legitimate expectation of privacy with regard to the inclusion in the programme of a photograph of him.

Programme summary

On 24 July 2017, New Vision TV broadcast the programme *Headline News* on three occasions over the course of the day. New Vision TV is an Urdu language channel broadcast under an Ofcom licence held by New Vision TV Limited. As the programme was broadcast in Urdu, an English translation was obtained by Ofcom and provided to the complainant and the broadcaster for comment. Mr Chagtai confirmed on Mr Noorani's behalf that he was content with the translation. However, the broadcaster provided comments on the translation which were assessed by Ofcom. Ofcom did not agree with the broadcaster's comments and the translation was resent to the parties who were informed that Ofcom would use this translation for the purposes of its investigation.

The studio presenter read out the news bulletin:

"In pursuit of information about Imran Khan and Kerry Packer's contract Jang Group's reporter Ahmad Noorani tried repeatedly to contact Austin Robertson. Because of the repeated requests for information, Robertson emailed Kaptaan [i.e. Mr Imran Khan]."

Imran Khan said that when Mir Shakil¹ and N-league² target you, their veil of lies is lifted”.

A picture of Mr Noorani was shown under the title “*International the News*”, followed by a document titled “*REPLY TO THE CONTEMP[T] NOTICE ON BEHALF OF RESPONDENT NO.3 NAMELY AHMED NOORANI REPORTER DAILY NEWS*”. A man [apparently Mr Noorani] was then shown from behind with the back of his head circled in red. The following material was also shown:

- An email from “*austin robertson [email address given]*” to Mr Khan, which said “*This brief note is confirm that I have received two telephone calls and an email from a person called Ahmed Noorani who is asking questions about your contract with World Series*”.
- A Tweet by Mr Khan which stated “*MSR [Mr Mir Shakil Ur Rahman] & his pro PMLN [Pakistan Muslim League] propagandists get exposed every time they target me with falsehoods. Fail to print facts they themselves get confirmed*”.

The following rolling banners were displayed on screen:

- “*Ahmad Noorani’s repeated phone calls to ex director Kerry Packer*”.
- “*Asked for information about agreement between Kaptaan and Kerry Packer*”.
- “*Imran Khan’s Tweet: MSR & his pro PMLN propagandists get exposed every time they target me with falsehoods. Fail to print facts they themselves get confirmed*”.

The news bulletin ended and there was no further reference to Mr Noorani in the programme.

New Vision TV repeated the *Headline News* programme later on 24 July 2017 at 14:00, and again at 17:00. In these editions, the story about Mr Noorani was not included, but a single caption reading “*Ahmad Noorani’s repeated phone calls to ex director Kerry Packer*” was shown.

Summary of the complaint and broadcaster’s response

Unjust or unfair treatment

Mr Chagtai complained that Mr Noorani was treated unjustly or unfairly in the programme as broadcast because:

- a) The programme alleged that Mr Noorani had “constantly been chasing Mr Kerry Packer and Mr Austin Robertson for a story on Mr Imran Khan”. Mr Chagtai said that the programme was presented in a manner that implied Mr Noorani, a journalist, had been “harassing individuals for stories” in order to pursue an agenda against Mr Imran Khan.

Mr Chagtai said that Mr Noorani had only emailed Mr Robertson once and had never called him. He said that it was Mr Noorani’s duty as a journalist to request comments

¹ Mr Mir Shakil ur Rahman, owner of Jang newspaper & Geo Media Group, for which Mr Noorani works as a journalist.

² The Pakistan Muslim League (Nawaz) group.

from individuals during the process of investigating a potential story. He said that it was incorrect to state that Mr Noorani was pursuing an agenda against Mr Khan.

In response, New Vision TV said that a statement that a journalist has made a repeated request for information did not substantiate the claim that the news report said that Mr Noorani "had been harassing individuals for stories". It added that a journalist has a duty to check information for a story and to make efforts to discover the truth.

New Vision TV said that the programme was about the "timing...and the omission of certain details in Mr Noorani's report". It added that Mr Noorani had acknowledged that he had contacted Mr Robertson and that his story containing many points was not complete. To support this, it quoted from a newspaper article dated 25 July 2017³ [the day after broadcast] in which Mr Noorani was quoted as follows:

"The letter was from one Australian citizen Austin Robertson. I got the response to this unknown private email last night [23 July 2017] but I needed more verifications and my story containing many points was not complete [and not published]. When I woke up the next morning [24 July 2017], there was hue and cry all over the social media and on some selected agenda-driven news channels with non-journalistic approach. The news was that I had got a response from Austin "confirming" some facts and that I hadn't reported that. The media house I am working with was also being attacked. This was not a big deal for me, as some forces working in the capital and social media wings of political parties especially that of PTI always continue to attack me or my journalistic work on regular basis".

New Vision TV said that journalists needed to check facts and probe stories. Similarly, it said that "the media should be able to report on itself when there is a news story of public interest". The broadcaster said that on this occasion, the spotlight was being placed on Mr Imran Khan and his tweet criticised a report for being incomplete. In conclusion, New Vision TV said that reporting this case was not unjust or unfair to Mr Noorani, as claimed in the complaint.

- b) He was not given an appropriate and timely opportunity to respond to the allegations made against him in the programme. Mr Chagtai said that Mr Noorani was not "given a fair chance to give his version of the events" and that if he had been given the opportunity to do so it would have "cleared this false propaganda".

New Vision TV said that Mr Noorani, a renowned journalist, would be accustomed to criticism from politicians, which he himself referred to as "no big deal" in the newspaper article dated 25 July 2017 quoted above.

Unwarranted infringement of privacy

- c) Mr Chagtai complained that Mr Noorani's privacy was unwarrantably infringed in the programme as broadcast because a photograph of him was included in the programme without his consent.

³ *Imran's allegation and the reporter's response*, The News, 25 July 2017:
<https://www.thenews.com.pk/print/218749-Imrans-allegation-and-the-reporters-response>

New Vision TV said that as a journalist, it was not an unwarranted infringement of Mr Noorani's privacy to use his photograph to credit him with his own news report. It added that Mr Noorani had become the subject of media coverage in July 2017 after he "made an error in a report on a high-profile case". As evidence of this, it referred to two newspaper articles dated 12 July 2017⁴, one of which was by Mr Noorani himself and carried his photograph with his name underneath⁵.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should be not upheld. Both the complainant and the broadcaster were given the opportunity to make representations on the Preliminary View. Both parties submitted representations which are summarised below.

Complainant's representations

Unjust or unfair treatment

Mr Chagtai said that he considered that the "context taken by Ofcom is wholly incorrect in view of how the British Pakistani and Pakistani audiences would understand the context of the broadcast". Mr Chagtai said that Ofcom should not consider the story about Mr Nawaz Sharif as forming part of the context as it forms a "completely different story" and said that any court cases which existed around those stories "have been disposed" by the Supreme Court of Pakistan⁶. He added that Mr Noorani had always acted with the "highest journalistic ethics", and "the context of this complaint should not be muddied with other stories and these should be omitted from this investigation".

Mr Chagtai said that the story, which he said was "structurally designed by the broadcaster", was that Mr Noorani had repeatedly called to find out details that would "go against" Imran Khan who, in Mr Chagtai's submission "claims to be the leader of the most popular Pakistani Political Party", and who has "a large following in Pakistan and globally". Mr Chagtai said that the structure of the story was designed to be one sided, and that the "[wrongdoing] of repeated calling based on a propaganda and falsehood against Imran Khan was placed" on Mr Noorani and his employer. Mr Chagtai said that Mr Noorani should have been given an opportunity to respond to these claims.

Unwarranted infringement of privacy

Mr Chagtai said that "highlighting in the programme" that Mr Noorani focused on "negative propaganda and searched for falsehood on Mr Khan", placed Mr Noorani in the spotlight. Mr

⁴ *The News reporter apologises for story suggesting JIT had found PM 'not guilty'*, Dawn, 12 July 2017: <https://www.dawn.com/news/1344847>

⁵ *Reporter's apology to readers*, The News, 12 July 2017: <https://www.thenews.com.pk/print/216020-Reporters-apology-to-readers>

⁶ Mr Chagtai provided the following link in support of this statement: *SC disposes of contempt notices against Mir Shakil-ur-Rahman, Mir Javed Rahman, and Ahmed Noorani*, Geo News: <https://www.geo.tv/latest/183040-sc-disposes-of-contempt-notices-against-mir-shakil-ur-rahman-mir-javed-rahman-and-ahmed-noorani>

Chagtai said that by including Mr Noorani's photographs alongside the claims being made in the programme had put him "in harm's way". He said that Mr Noorani was attacked in October 2017 and Pakistan had been ranked as one of the most dangerous places for journalists⁷. In particular, Mr Chagtai said that including photographs of journalists alongside negative stories about one of the largest political parties in Pakistan, made them "vulnerable to serious harm"⁸.

Broadcaster's representations

New Vision TV said that it did not consider Mr Chagtai had raised any new, substantive points about the programme. It said that Mr Chagtai had provided links to news reports about a violent attack suffered by Mr Noorani in October 2017, some three months after the broadcast of the programme on 24 July 2017. It added that Mr Chagtai appeared to be making a link between the UK based investigation into the broadcast of this programme in July 2017 and an attack in October 2017 "at the same time as acknowledging that Pakistani journalists face danger every day".

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, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a translated transcript of it and both parties' written submissions. Ofcom also took careful account of the representations made by the parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of both sets of representations, we considered the points raised did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of

⁷ Mr Chagtai provided the following link in support of this statement: *Pakistan rated among most dangerous countries for Journalists*, Dawn, 3 November 2017: <https://www.geo.tv/latest/183040-sc-disposes-of-contempt-notices-against-mir-shakil-ur-rahman-mir-javed-rahman-and-ahmed-noorani>

⁸ Mr Chagtai provided the following link in support of this statement: *Journalist Ahmed Noorani attacked by knife-wielding assailants in Islamabad*, Dawn, 27 October 2017: <https://www.dawn.com/news/1366598>

programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) We first considered the complaint that Mr Noorani was treated unjustly or unfairly in the programme as broadcast because the programme alleged that he had “constantly been chasing Mr Kerry Packer and Mr Austin Robertson for a story on Mr Imran Khan” and implied that he had been “harassing individuals for stories” in order to pursue an agenda against Mr Khan.

Practice 7.9 states:

“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...”.

Ofcom recognises the broadcaster's right to freedom of expression and the public interest in allowing them to broadcast programmes on matters of interest to viewers freely. However, in presenting material in programmes, reasonable care must be taken by broadcasters not to do so in a manner that causes unfairness to people or organisations in programmes. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the cases including, for example, the seriousness of any allegations and the context within which they are made.

In considering this case, we began by examining the overall background context in which the programme was broadcast. We noted Mr Chagtai's representation, that Ofcom's view of the context taken in the Preliminary View was “wholly incorrect in view of how British Pakistani and Pakistani audiences” would have understood the broadcast. Ofcom does not, however, accept this assertion. We focused on the specific statements made about the subject of the complaint, Mr Noorani, as broadcast. We took into account that he appeared to be a well-known and an experienced journalist who had written published articles on Pakistani politics. It was in this context that Ofcom examined the statements that were made in the programme that resulted in the complaint that Mr Noorani was unfairly described as “harassing individuals for stories” in pursuit of an “agenda against Mr Imran Khan”.

As set out in the “Programme summary” above, the programme said that:

“In pursuit of information about Imran Khan and Kerry Packer's contract, Jang Group's reporter Ahmad Noorani tried repeatedly to contact Austin Robertson. Because of the repeated requests for information, Robertson emailed Kaptaan [i.e. Mr Imran Khan]. Imran Khan said that when Mir Shakil and N-league target you, their veil of lies is lifted”.

Ofcom recognised that the programme clearly said that Mr Noorani had “repeatedly” tried to contact Mr Robertson, and included text stating that Mr Noorani had made “repeated phone calls to ex director Kerry Packer”. It also included what appeared to be an email from Mr Packer to Mr Khan telling him that he had received “two telephone calls and an email” from Mr Noorani. We took into account from the complaint that this was denied, and that Mr Noorani had never telephoned either Mr Packer or Mr

Robertson and had only sent one email to Mr Robertson. It was not a matter for Ofcom to determine as fact whether or not Mr Noorani repeatedly tried to contact Mr Robertson. The issue for Ofcom was whether the broadcast of the comments made in the programme amounted to unfairness to Mr Noorani. In our view, given that Mr Noorani is an established journalist and has said himself in his complaint to Ofcom that it was his "duty" to request comments from individuals during the process of investigating a potential story, we did not consider that the comments would be understood by viewers to mean that Mr Noorani had been "harassing people for stories". Rather, we considered that viewers were likely to have appreciated that Mr Noorani was carrying out his job as a journalist in following a story and seeking information from people relevant to that story. Having taken account of what comments were made in the programme and the relevant context (i.e. that Mr Noorani was an experienced journalist), we took the view that viewers would have been unlikely to have perceived Mr Noorani in a materially and adversely unfair way when he was described as making repeated attempts to contact people for the journalistic purpose of investigating a story.

In relation to the allegation that Mr Noorani's attempts to contact Mr Robertson and Mr Packer were "in order to pursue an agenda against Mr Imran Khan", Ofcom again considered what was included in the programme (see above). In particular, we took account of the following comment: *"Imran Khan said that when Mir Shakil and N-league target you, their veil of lies is lifted"*, and Mr Khan's *"MSR [Mr Mir Shakil Ur Rahman] & his pro PMLN [Pakistan Muslim League] propagandists get exposed every time they target me with falsehoods. Fail to print facts they themselves get confirmed"*. In our view, the references made in the programme to being "targeted", i.e. that there was an "agenda" being pursued against Mr Khan, were clearly attributable to Mr Khan and presented as his personal view. We also took the view that Mr Khan's references were directed at Mr Rahman, the owner of the Jang newspaper and Geo Media Group, and his political allies, rather than being specifically directed at Mr Noorani himself, as an individual.

Therefore, given the overall context of the broadcast programme as set out above, Ofcom found that the comments complained of were unlikely to have materially and adversely affected viewers' opinions of Mr Noorani in a way that was unfair to him. On this basis, we considered that material facts were not presented, omitted or disregarded in a way that resulted in unfairness to Mr Noorani.

- b) Ofcom next considered Mr Chagtai's complaint that Mr Noorani was not given an appropriate and timely opportunity to respond to the allegation made in the programme.

In assessing this head of complaint Ofcom took account of Practice 7.11 of the Code 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".

Given Ofcom's decision set out in head a) above, we considered that the comments made in the programme about Mr Noorani did not amount to significant allegations such that he should have been given an opportunity to respond.

Therefore, Ofcom found that there was no unjust or unfair treatment to Mr Noorani in the programme as broadcast.

Unwarranted infringement of privacy

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

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

- c) Ofcom considered Mr Chagtai's complaint that Mr Noorani's privacy was unwarrantably infringed in the programme as broadcast because a photograph of him was included in the programme without his consent.

Practice 8.6 states:

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

We began by assessing the extent to which Mr Noorani had a legitimate expectation of privacy in regard to the inclusion of the photograph of him in the programme as broadcast. Ofcom considers that the test applied 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. Ofcom therefore approaches each case on its facts and applied this approach in considering this complaint.

Whether a legitimate expectation of privacy may arise with regard to the inclusion of a photograph of an individual in a programme will depend on the circumstances. In considering whether or not a person had a legitimate expectation of privacy in relation to the inclusion of such a photograph in a programme, we would take into account: the nature of the photograph and any information included in the programme about it; the circumstances pertaining to its inclusion in the programme; and any prior use to which the photographs have been put (notably if they have previously been placed in the public domain and/or widely disseminated).

In this case, we took into account that the photograph of Mr Noorani was shown for approximately two seconds. Mr Noorani's face was clearly visible to viewers, but his face was partially obscured. In any event, the programme identified him by name.

New Vision TV said that Mr Noorani had used a photograph of himself to credit an article he had written (though we observed that this was not the same photograph as used in the programme).

We also noted Mr Chagtai's representations that the inclusion of the photograph had associated Mr Noorani with a false story about Mr Khan, that Pakistan is a dangerous place for journalists and that Mr Noorani had been attacked in October 2017.

We took into account that the photograph used in the programme was (along with many others of Mr Noorani) readily available to view on the internet, yet it was unclear to us whether the photograph used in the programme had previously been published or otherwise put into the public domain prior to the broadcast of this programme. Nevertheless, we also took into account that the broadcast of the photograph did not disclose any information about Mr Noorani to viewers other than the appearance of his face, nor did the complainant suggest that the photograph was taken in a private place, or disclose anything private or confidential about Mr Noorani.

We also observed that the photograph did not show Mr Noorani engaged in an activity that could reasonably be regarded as private or confidential in nature. Ofcom considered that the inclusion of the photograph in the programme was to enable viewers to identify Mr Noorani as the journalist about whom the relevant comments were made. While we note Mr Chagtai's representations, that Pakistan is a dangerous place for journalists, we are not persuaded that the fact that Mr Noorani was a professional journalist in this particular case was intrinsically private or confidential.

Given our view about the nature of the photograph and, in particular, that it did not disclose any private or confidential information about Mr Noorani, we considered that Mr Noorani did not have a legitimate expectation of privacy with regard to the inclusion of the photograph in the programme. Given this, it was not necessary for Ofcom to consider whether any infringement of Mr Noorani's privacy was warranted.

Ofcom therefore found that Mr Noorani's privacy was not unwarrantably infringed in the programme as broadcast in this respect.

Ofcom has not upheld Mr Noorani's complaint, made on his behalf by Mr Chagtai, of unjust or unfair treatment and unwarranted infringement of privacy in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 17 and 30 September 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 | Service | Transmission date | Categories |
|-------------|---------|-------------------|-----------------------|
| News at Ten | ITV | 11/05/2018 | Due impartiality/bias |

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

For more information about how Ofcom conducts investigations about on demand services, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 17 and 30 September 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 | Service | Transmission Date | Categories | Number of complaints |
|--|-----------------------|-------------------|--|----------------------|
| Gogglebox | 4Seven | 21/09/2018 | Nudity | 1 |
| Muqabil | 92 News | 30/08/2018 | Due accuracy | 1 |
| Broadcast competition | Absolute Radio | 13/08/2018 | Competitions | 1 |
| Al-Nakba | Al Jazeera | 31/05/2018 | Due impartiality/bias | 1 |
| Iran doctors: US sanctions endangering patients' lives | Al Jazeera | 29/08/2018 | Due accuracy | 1 |
| Bliss Radio Breakfast Show | Bliss Radio | 11/09/2018 | Offensive language | 1 |
| Scottish Football: St Mirren v Celtic FC | BT Sports 1 | 14/09/2018 | Generally accepted standards | 1 |
| Martin Lowes | Capital FM North East | 29/10/2000 | Competitions | 1 |
| Dog and Beth: On the Hunt | CBS Reality | 16/08/2018 | Offensive language | 1 |
| Programme trailer | CBS Reality | 18/08/2018 | Materially misleading | 1 |
| The Chase | Challenge | 07/09/2018 | Materially misleading | 1 |
| Celebrity Island with Bear Grylls | Channel 4 | 16/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Celebs Go Dating (trailer) | Channel 4 | 27/09/2018 | Sexual material | 1 |
| Channel 4 Ident | Channel 4 | 12/09/2018 | Generally accepted standards | 1 |
| Channel 4 News | Channel 4 | 28/08/2018 | Due accuracy | 1 |
| Channel 4 News | Channel 4 | 30/08/2018 | Due impartiality/bias | 1 |
| Channel 4 News | Channel 4 | 19/09/2018 | Generally accepted standards | 1 |
| Channel 4 News | Channel 4 | 24/09/2018 | Due impartiality/bias | 1 |
| Cover Story | Channel 4 | 05/09/2018 | Other | 1 |
| Cruises from Hell: Caught on Camera | Channel 4 | 23/09/2018 | Offensive language | 4 |
| First Dates Hotel | Channel 4 | 11/09/2018 | Generally accepted standards | 1 |
| Formula One: Singapore Grand Prix | Channel 4 | 16/09/2018 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|--------------------------------|-----------|-------------------|-----------------------------------|----------------------|
| Gogglebox | Channel 4 | 21/09/2018 | Sexual material | 1 |
| Grand Designs | Channel 4 | 19/09/2018 | Age discrimination/offence | 1 |
| Massacre at Ballymurphy | Channel 4 | 08/09/2018 | Due impartiality/bias | 1 |
| Naked Attraction | Channel 4 | 08/09/2018 | Nudity | 1 |
| Naked Attraction | Channel 4 | 14/09/2018 | Nudity | 2 |
| Naked Attraction | Channel 4 | 18/09/2018 | Nudity | 1 |
| Naked Attraction | Channel 4 | 19/09/2018 | Nudity | 1 |
| No Offence | Channel 4 | 13/09/2018 | Disability discrimination/offence | 1 |
| No Offence | Channel 4 | 13/09/2018 | Due impartiality/bias | 1 |
| Spying on My Family | Channel 4 | 06/09/2018 | Under 18s in programmes | 1 |
| Spying on My Family | Channel 4 | 10/09/2018 | Generally accepted standards | 1 |
| The Bisexual (trailer) | Channel 4 | 27/09/2018 | Sexual material | 2 |
| The Circle | Channel 4 | 18/09/2018 | Dangerous behaviour | 2 |
| The Circle | Channel 4 | 18/09/2018 | Generally accepted standards | 7 |
| The Circle | Channel 4 | 19/09/2018 | Generally accepted standards | 1 |
| The Circle | Channel 4 | 21/09/2018 | Generally accepted standards | 1 |
| The Circle | Channel 4 | 27/09/2018 | Gender discrimination/offence | 1 |
| The Circle | Channel 4 | 27/09/2018 | Generally accepted standards | 8 |
| The Extreme Diet Hotel | Channel 4 | 05/09/2018 | Harm | 2 |
| The Great British Bake Off | Channel 4 | 31/08/2018 | Race discrimination/offence | 1 |
| The Great British Bake Off | Channel 4 | 18/09/2018 | Generally accepted standards | 2 |
| The Great British Bake Off | Channel 4 | 18/09/2018 | Other | 1 |
| The Undateables | Channel 4 | 10/09/2018 | Disability discrimination/offence | 1 |
| The Undateables | Channel 4 | 12/09/2018 | Disability discrimination/offence | 1 |
| 9/11: A Twin Towers Conspiracy | Channel 5 | 11/09/2018 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 14/09/2018 | Hypnotic and other techniques | 1 |
| Big Brother | Channel 5 | 16/09/2018 | Generally accepted standards | 11 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|-------------------------------|----------------|--------------------------|--|-----------------------------|
| Big Brother | Channel 5 | 16/09/2018 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 17/09/2018 | Generally accepted standards | 3 |
| Big Brother | Channel 5 | 18/09/2018 | Drugs, smoking, solvents or alcohol | 1 |
| Big Brother | Channel 5 | 18/09/2018 | Gender discrimination/offence | 2 |
| Big Brother | Channel 5 | 18/09/2018 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 19/09/2018 | Generally accepted standards | 6 |
| Big Brother | Channel 5 | 23/09/2018 | Disability discrimination/offence | 2 |
| Big Brother | Channel 5 | 23/09/2018 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 23/09/2018 | Materially misleading | 1 |
| Big Brother | Channel 5 | 24/09/2018 | Generally accepted standards | 2 |
| Big Brother | Channel 5 | 27/09/2018 | Generally accepted standards | 20 |
| Big Brother's Bit On The Side | Channel 5 | 17/09/2018 | Generally accepted standards | 1 |
| Big Brother's Bit On The Side | Channel 5 | 18/09/2018 | Generally accepted standards | 1 |
| Big Brother's Bit On the Side | Channel 5 | 19/09/2018 | Generally accepted standards | 1 |
| Big Brother's Bit On The Side | Channel 5 | 25/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Britain's Parking Hell | Channel 5 | 15/08/2018 | Offensive language | 1 |
| Celebrity Big Brother | Channel 5 | 17/08/2018 | Race discrimination/offence | 1,101 |
| Celebrity Big Brother | Channel 5 | 30/08/2018 | Generally accepted standards | 1 |
| Celebrity Big Brother | Channel 5 | 31/08/2018 | Voting | 4 |
| Celebrity Big Brother | Channel 5 | 01/09/2018 | Generally accepted standards | 2 |
| Celebrity Big Brother | Channel 5 | 03/09/2018 | Race discrimination/offence | 1 |
| Celebrity Big Brother | Channel 5 | 04/09/2018 | Generally accepted standards | 1 |
| Celebrity Big Brother | Channel 5 | 05/09/2018 | Generally accepted standards | 3 |
| Celebrity Big Brother | Channel 5 | 06/09/2018 | Race discrimination/offence | 7 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|-------------------------------------|-------------------|-------------------|-------------------------------------|----------------------|
| Celebrity Big Brother | Channel 5 | 07/09/2018 | Drugs, smoking, solvents or alcohol | 1 |
| Celebrity Big Brother | Channel 5 | 07/09/2018 | Gender discrimination/offence | 1 |
| Celebrity Big Brother | Channel 5 | 07/09/2018 | Generally accepted standards | 2 |
| Celebrity Big Brother | Channel 5 | 07/09/2018 | Voting | 1 |
| Celebrity Big Brother | Channel 5 | 08/09/2018 | Race discrimination/offence | 275 |
| Celebrity Big Brother | Channel 5 | 10/09/2018 | Generally accepted standards | 1 |
| Celebrity Big Brother | Channel 5 | 10/09/2018 | Race discrimination/offence | 2 |
| Celebs in Solitary: Meltdown | Channel 5 | 12/09/2018 | Gender discrimination/offence | 1 |
| Celebs in Solitary: Meltdown | Channel 5 | 13/09/2018 | Offensive language | 1 |
| Friends | Channel 5 | 23/09/2018 | Offensive language | 1 |
| Jeremy Vine | Channel 5 | 03/09/2018 | Generally accepted standards | 7 |
| Jeremy Vine | Channel 5 | 10/09/2018 | Generally accepted standards | 1 |
| Jeremy Vine | Channel 5 | 10/09/2018 | Race discrimination/offence | 1 |
| Jeremy Vine | Channel 5 | 11/09/2018 | Generally accepted standards | 1 |
| Jeremy Vine | Channel 5 | 17/09/2018 | Materially misleading | 1 |
| The Floogals | Channel 5 | 15/09/2018 | Dangerous behaviour | 1 |
| The Sex Business: Porn Stars | Channel 5 | 04/07/2018 | Sexual material | 19 |
| The Sex Business: Working from Home | Channel 5 | 04/07/2018 | Sexual material | 1 |
| Very's sponsorship of Milkshake | Channel 5 | 25/09/2018 | Sponsorship credits | 1 |
| News | CNN | 27/08/2018 | Generally accepted standards | 1 |
| CNN News | CNN International | 16/07/2018 | Due impartiality/bias | 1 |
| Comedy Central at the Comedy Store | Comedy Central | 19/09/2018 | Offensive language | 1 |
| Lee Evans: Monsters | Comedy Central | 07/09/2018 | Offensive language | 1 |
| Would I Lie to You? | Dave | 15/07/2018 | Offensive language | 1 |
| Ultimate Spider-Man | Disney Junior | 09/09/2018 | Scheduling | 1 |
| Celebs Go Dating (trailer) | E4 | 27/09/2018 | Sexual material | 1 |
| Made in Chelsea: Croatia | E4 | 10/09/2018 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|--|-----------------------------|-------------------|--|----------------------|
| Naked Attraction | E4 | 25/09/2018 | Generally accepted standards | 1 |
| Nathan Barley | Gold | 17/09/2018 | Generally accepted standards | 1 |
| Programming | Heart North West | 20/09/2018 | Competitions | 1 |
| Matt Wilkinson | Heart Radio Gloucestershire | 23/08/2018 | Sexual material | 1 |
| Heart Breakfast with Jagger and Woody | Heart Wales | 18/09/2018 | Generally accepted standards | 1 |
| Al Murray's: Why Does Everyone Hates the English | History | 18/09/2018 | Race discrimination/offence | 1 |
| Al Murray's: Why Does Everyone Hates the English | History | 22/10/2018 | Race discrimination/offence | 1 |
| Broadcast competition | Hits Radio Manchester | 13/09/2018 | Competitions | 1 |
| 5 Gold Rings | ITV | 16/09/2018 | Violence | 2 |
| Coronation Street | ITV | 05/09/2018 | Race discrimination/offence | 1 |
| Coronation Street | ITV | 05/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Coronation Street | ITV | 05/09/2018 | Sexual material | 1 |
| Coronation Street | ITV | 10/09/2018 | Age discrimination/offence | 1 |
| Coronation Street | ITV | 12/09/2018 | Dangerous behaviour | 1 |
| Coronation Street | ITV | 12/09/2018 | Generally accepted standards | 1 |
| Coronation Street | ITV | 12/09/2018 | Religious/Beliefs discrimination/offence | 5 |
| Coronation Street | ITV | 14/09/2018 | Generally accepted standards | 1 |
| Coronation Street | ITV | 17/09/2018 | Animal welfare | 1 |
| Coronation Street | ITV | 17/09/2018 | Gender discrimination/offence | 1 |
| Coronation Street | ITV | 17/09/2018 | Generally accepted standards | 2 |
| Coronation Street | ITV | 17/09/2018 | Sexual material | 1 |
| Coronation Street | ITV | 18/09/2018 | Generally accepted standards | 1 |
| Coronation Street | ITV | 19/09/2018 | Sexual material | 1 |
| Coronation Street | ITV | 21/09/2018 | Violence | 1 |
| Coronation Street | ITV | 26/09/2018 | Race discrimination/offence | 18 |
| Coronation Street | ITV | 26/09/2018 | Violence | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|--|----------------|--------------------------|--|-----------------------------|
| Emmerdale | ITV | 10/09/2018 | Generally accepted standards | 1 |
| Emmerdale | ITV | 11/09/2018 | Generally accepted standards | 6 |
| Emmerdale | ITV | 11/09/2018 | Offensive language | 1 |
| Emmerdale | ITV | 11/09/2018 | Scheduling | 1 |
| Emmerdale | ITV | 12/09/2018 | Scheduling | 1 |
| Emmerdale | ITV | 13/09/2018 | Drugs, smoking, solvents or alcohol | 1 |
| Emmerdale | ITV | 14/09/2018 | Violence | 1 |
| Emmerdale | ITV | 17/09/2018 | Generally accepted standards | 1 |
| Emmerdale | ITV | 17/09/2018 | Materially misleading | 1 |
| Emmerdale | ITV | 24/09/2018 | Offensive language | 1 |
| Emmerdale | ITV | 24/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Good Morning Britain | ITV | 12/07/2018 | Due impartiality/bias | 1 |
| Good Morning Britain | ITV | 04/09/2018 | Due impartiality/bias | 1 |
| Good Morning Britain | ITV | 10/09/2018 | Due impartiality/bias | 1 |
| Good Morning Britain | ITV | 14/09/2018 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 17/09/2018 | Due impartiality/bias | 1 |
| Good Morning Britain | ITV | 17/09/2018 | Scheduling | 1 |
| Good Morning Britain | ITV | 18/09/2018 | Generally accepted standards | 2 |
| Good Morning Britain | ITV | 19/09/2018 | Gender discrimination/offence | 6 |
| Good Morning Britain | ITV | 19/09/2018 | Generally accepted standards | 6 |
| Good Morning Britain | ITV | 20/09/2018 | Gender discrimination/offence | 1 |
| Good Morning Britain | ITV | 24/09/2018 | Due impartiality/bias | 1 |
| Good Morning Britain | ITV | 24/09/2018 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 25/09/2018 | Offensive language | 2 |
| Good Morning Britain | ITV | 25/09/2018 | Transgender discrimination/offence | 3 |
| Good Morning Britain | ITV | 27/09/2018 | Due impartiality/bias | 1 |
| Griff's Great Britain | ITV | 03/09/2018 | Animal welfare | 1 |
| Harry Potter and the Prisoner of Azkaban | ITV | 22/09/2018 | Scheduling | 1 |
| ITV Evening News | ITV | 10/09/2018 | Generally accepted standards | 1 |
| ITV London News | ITV | 10/09/2018 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|--|---------|-------------------|---|----------------------|
| ITV News | ITV | 19/09/2018 | Violence | 1 |
| ITV News | ITV | 24/09/2018 | Due accuracy | 1 |
| ITV News | ITV | 24/09/2018 | Due impartiality/bias | 1 |
| James Martin's Saturday Morning | ITV | 15/09/2018 | Offensive language | 1 |
| Judge Rinder | ITV | 14/09/2018 | Generally accepted standards | 1 |
| Judge Rinder | ITV | 20/09/2018 | Generally accepted standards | 1 |
| Loose Women | ITV | 14/09/2018 | Generally accepted standards | 1 |
| Lorraine | ITV | 26/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Programming | ITV | 21/09/2018 | Competitions | 1 |
| Serial Killer with Piers Morgan | ITV | 13/09/2018 | Generally accepted standards | 1 |
| The Chase | ITV | 27/09/2018 | Competitions | 1 |
| The Imitation Game | ITV | 09/09/2018 | Sexual orientation discrimination/offence | 1 |
| The Jeremy Kyle Show | ITV | 03/09/2018 | Generally accepted standards | 1 |
| The Jeremy Kyle Show | ITV | 12/09/2018 | Generally accepted standards | 1 |
| The Martin Lewis Money Show Live - Christmas Countdown | ITV | 25/09/2018 | Other | 1 |
| The X Factor | ITV | 15/09/2018 | Materially misleading | 1 |
| The X Factor | ITV | 16/09/2018 | Materially misleading | 1 |
| The X Factor | ITV | 16/09/2018 | Sexual material | 1 |
| The X Factor | ITV | 22/09/2018 | Materially misleading | 1 |
| This Morning | ITV | 25/07/2018 | Generally accepted standards | 1 |
| This Morning | ITV | 07/09/2018 | Disability discrimination/offence | 1 |
| This Morning | ITV | 12/09/2018 | Materially misleading | 5 |
| This Morning | ITV | 14/09/2018 | Generally accepted standards | 15 |
| This Morning | ITV | 17/09/2018 | Materially misleading | 1 |
| This Morning | ITV | 19/09/2018 | Animal welfare | 3 |
| This Morning | ITV | 21/09/2018 | Generally accepted standards | 1 |
| Unforgotten | ITV | 19/08/2018 | Violence | 1 |
| Vanity Fair | ITV | 23/09/2018 | Animal welfare | 1 |
| WOS Wrestling | ITV | 16/09/2018 | Violence | 1 |
| Zoe Ball on Sunday | ITV | 09/09/2018 | Dangerous behaviour | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|----------------------------|-------------------|-------------------|--------------------------------|----------------------|
| ITV News Central | ITV Central | 16/09/2018 | Violence | 1 |
| ITV Channel News | ITV Channel | 02/08/2018 | Generally accepted standards | 1 |
| ITV News London | ITV London | 17/09/2018 | Generally accepted standards | 1 |
| ITV News Calendar | ITV Yorkshire | 14/09/2018 | Violence | 1 |
| Celebrity Juice | ITV2 | 27/09/2018 | Dangerous behaviour | 1 |
| The Jeremy Kyle Show | ITV2 | 13/09/2018 | Generally accepted standards | 1 |
| Absolutely Ascot | ITVBe | 20/09/2018 | Dangerous behaviour | 1 |
| Absolutely Ascot | ITVBe | 23/09/2018 | Materially misleading | 2 |
| Absolutely Ascot (trailer) | ITVBe | 09/09/2018 | Dangerous behaviour | 1 |
| Love Island Australia | ITVBe | Various | Generally accepted standards | 1 |
| The Only Way is Essex | ITVBe | 09/09/2018 | Generally accepted standards | 1 |
| The Only Way is Essex | ITVBe | 16/09/2018 | Violence | 1 |
| The Only Way is Essex | ITVBe | 23/09/2018 | Generally accepted standards | 1 |
| Programming | Jack 3 Oxford | 28/09/2018 | Generally accepted standards | 1 |
| Botched | Kanal 11 (Sweden) | 12/09/2018 | Nudity | 1 |
| Botched | Kanal 11 (Sweden) | 13/09/2018 | Nudity | 1 |
| Lovelace | Kanal 11 (Sweden) | 16/09/2018 | Nudity | 1 |
| Homeopathic Show | KTV | 18/07/2018 | Promotion of products/services | 1 |
| Punjabi Folk | KTV | 13/06/2018 | Violence | 1 |
| Iain Dale | LBC 97.3 FM | 18/09/2018 | Due impartiality/bias | 1 |
| James O'Brien | LBC 97.3 FM | 18/09/2018 | Generally accepted standards | 1 |
| James O'Brien | LBC 97.3 FM | 21/09/2018 | Race discrimination/offence | 1 |
| James O'Brien | LBC 97.3 FM | 12/09/2018 | Due impartiality/bias | 1 |
| James O'Brien | LBC 97.3 FM | 13/09/2018 | Race discrimination/offence | 1 |
| James O'Brien | LBC 97.3 FM | 17/09/2018 | Race discrimination/offence | 2 |
| James O'Brien | LBC 97.3 FM | 18/09/2018 | Generally accepted standards | 2 |
| Maajid Nawaz | LBC 97.3 FM | 15/09/2018 | Due impartiality/bias | 1 |
| Maajid Nawaz | LBC 97.3 FM | 16/09/2018 | Due impartiality/bias | 1 |
| Matt Stadlen | LBC 97.3 FM | 23/09/2018 | Due impartiality/bias | 1 |
| Nigel Farage | LBC 97.3 FM | 12/09/2018 | Due accuracy | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|----------------------------|---------------------------|-------------------|------------------------------------|----------------------|
| Steve Allen | LBC 97.3 FM | 18/09/2018 | Generally accepted standards | 1 |
| Steve Allen | LBC 97.3 FM | 24/09/2018 | Generally accepted standards | 1 |
| Steve Allen | LBC 97.3 FM | 27/09/2018 | Generally accepted standards | 1 |
| Ricky Gervais Science | More4 | 15/09/2018 | Generally accepted standards | 1 |
| Box Upfront | MTV | 10/09/2018 | Dangerous behaviour | 1 |
| Peppa Pig | Nick Junior | 16/09/2018 | Generally accepted standards | 1 |
| Highway Cops | Pick | 25/08/2018 | Offensive language | 1 |
| Animal Cops: Detroit | Quest Red | 09/09/2018 | Animal welfare | 1 |
| Mark Your Card | Racing UK | 23/08/2018 | Offensive language | 1 |
| The Chris Moyles Show | Radio X | 06/09/2018 | Commercial communications on radio | 1 |
| News | RT | 13/09/2018 | Due impartiality/bias | 2 |
| Super Sunday | Sky Main Event | 02/09/2018 | Generally accepted standards | 1 |
| Kay Burley | Sky News | 24/09/2018 | Due accuracy | 1 |
| Press Preview | Sky News | 04/08/2018 | Due impartiality/bias | 4 |
| Press Preview | Sky News | 15/09/2018 | Due impartiality/bias | 1 |
| Press Preview | Sky News | 20/09/2018 | Generally accepted standards | 1 |
| Sky News | Sky News | 30/08/2018 | Due impartiality/bias | 1 |
| Sky News | Sky News | 13/09/2018 | Due accuracy | 1 |
| Sky News | Sky News | 15/09/2018 | Generally accepted standards | 1 |
| Sky News | Sky News | 22/09/2018 | Due impartiality/bias | 1 |
| Sky News | Sky News | 26/09/2018 | Other | 1 |
| Sunrise | Sky News | 17/07/2018 | Generally accepted standards | 1 |
| Sunrise | Sky News | 09/09/2018 | Gender discrimination/offence | 1 |
| Sunrise | Sky News | 17/09/2018 | Due impartiality/bias | 1 |
| The Papers | Sky News | 15/09/2018 | Race discrimination/offence | 1 |
| Fifa Football Awards | Sky Sports Main Event | 24/09/2018 | Crime and disorder | 1 |
| Monday Night Football Live | Sky Sports Main Event | 17/09/2018 | Race discrimination/offence | 1 |
| The Debate - Live | Sky Sports Premier League | 30/08/2018 | Due impartiality/bias | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|------------------------------|-------------|-------------------|-------------------------------------|----------------------|
| My Kitchen Rules: Australia | Sky Witness | 18/09/2018 | Harm | 1 |
| A League of Their Own | Sky1 | 30/08/2018 | Race discrimination/offence | 1 |
| The Simpsons | Sky1 | 09/09/2018 | Drugs, smoking, solvents or alcohol | 1 |
| Kaun Banega Cropati | Sony SAB | 12/09/2018 | Advertising minutage | 1 |
| STV News at Six | STV | 05/09/2018 | Due accuracy | 1 |
| The Steph and Dom Show | Talk Radio | 15/07/2018 | Generally accepted standards | 1 |
| Alan Brazil Sports Breakfast | Talksport | 14/09/2018 | Crime and disorder | 2 |
| Football commentary | Talksport | 23/09/2018 | Commercial communications on radio | 1 |
| Programming | Talksport | 29/08/2018 | Generally accepted standards | 1 |
| Programming | Talksport | 21/09/2018 | Materially misleading | 1 |
| Love Your Neighbour | TBNUK | 23/08/2018 | Crime and disorder | 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 | Service | Transmission Date | Categories | Number of complaints |
|--------------|---------------------------|-------------------|--|----------------------|
| BBC News | BBC 1 | 07/08/2018 | Generally accepted standards | 1 |
| Panorama | BBC 1 | n/a | Due impartiality/bias | 1 |
| Newsnight | BBC 2 | 18/07/2018 | Materially misleading | 1 |
| BBC Briefing | BBC News Channel on BBC 1 | 24/05/2018 | Generally accepted standards | 1 |
| Today | BBC Radio 4 | 28/03/2018 | Religious/Beliefs discrimination/offence | 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

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 17 and 30 September 2018 because they did not raise issues warranting investigation.

| Licensee | Licensed service | Categories |
|-----------------------|-------------------------|------------------------------------|
| Hit Mix Radio Limited | Hitmix Radio | Key Commitments |
| That's Solent Limited | That's Solent TV | Programming Commitments (local TV) |

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 that does not fall within the scope of regulation.

| Programme | Service | Transmission Date | Categories | Number of complaints |
|----------------------------|---------------------------|-------------------|-----------------------|----------------------|
| Ahvaz National Resistance | Ahvaz National Resistance | 23/09/2018 | Outside of remit | 1 |
| Advertisement | All 4 | 10/09/2018 | Advertising content | 1 |
| GDPR compliance | All 4 | 24/09/2018 | Other | 1 |
| Outlander | All 4 | 05/06/2018 | Other | 1 |
| Advertisements | Challenge | 15/09/2018 | Advertising content | 1 |
| Advertisements | Challenge | 22/09/2018 | Advertising content | 1 |
| Advertisements | Channel 4 | 18/09/2018 | Advertising content | 1 |
| Advertisements | Channel 4 | 25/09/2018 | Advertising content | 1 |
| Advertisements | Channel 4 | 27/09/2018 | Advertising content | 1 |
| The Circle (pre-tx) | Channel 4 | 18/09/2018 | Outside of remit | 1 |
| The Great British Bake Off | Channel 4 | n/a | Outside of remit | 1 |
| The Great British Bake Off | Channel 4/Netflix | n/a | Hatred and abuse | 1 |
| Advertisements | Channel 5 | 09/09/2018 | Advertising content | 1 |
| Advertisements | Channel 5 | 10/09/2018 | Advertising content | 1 |
| Advertisements | Channel 5 | 20/09/2018 | Advertising content | 1 |
| Monster Deals | Create and Craft | 13/09/2018 | Teleshopping | 1 |
| Ideal World | Ideal World | 13/09/2018 | Teleshopping | 1 |
| Advertisements | ITV | 07/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 08/09/2018 | Advertising content | 2 |
| Advertisements | ITV | 09/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 10/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 13/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 16/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 20/09/2018 | Advertising content | 6 |
| Advertisements | ITV | 22/09/2018 | Advertising content | 1 |
| Advertisements | ITV | 23/09/2018 | Advertising content | 2 |
| Advertisements | ITV | 26/09/2018 | Advertising content | 1 |
| The X Factor | ITV | 14/09/2018 | Outside of remit | 1 |
| The X Factor | ITV | 22/09/2018 | Outside of remit | 1 |
| Bletchley Park | ITV Hub | 08/04/2018 | Advertising placement | 1 |
| Advertisements | ITV2 | 22/09/2018 | Advertising content | 1 |
| Advertisements | ITV3 | 10/09/2018 | Advertising content | 1 |
| Non-editorial (account) | NOW TV | 25/08/2018 | Other | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|------------------------------|------------------------|--------------------------|-------------------------|-----------------------------|
| Non-editorial (subscription) | NOW TV | 20/09/2018 | Other | 1 |
| QVC | QVC | 16/09/2018 | Advertising content | 1 |
| TV-Plus | Samsung Smart TV | 09/08/2018 | Protection of under 18s | 1 |
| TV-Plus | Samsung Smart TV | 22/08/2018 | Protection of under 18s | 1 |
| Advertisements | Sky Sports | 30/08/2018 | Advertising content | 1 |
| Advertisements | Sky Sports | 15/09/2018 | Advertising content | 1 |
| Advertisements | Sony Crime Channel | 17/09/2018 | Advertising content | 1 |
| Advertisements | STV | 18/09/2018 | Advertising content | 1 |
| Advertisements | STV and local radio | 26/09/2018 | Advertising content | 1 |
| Taskmaster | UKTV Play | 05/09/2018 | Access services | 1 |
| Advertisements | Various | 12/09/2018 | Advertising content | 1 |
| Advertisements | Various | 17/09/2018 | Advertising content | 1 |
| Subtitles | Virgin Media On Demand | | Access services | 1 |

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>

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 |
|--|---------|-------------------------------|--|----------------------|
| Antiques Roadshow | BBC 1 | 16/09/2018 | Generally accepted standards | 4 |
| BBC Breakfast | BBC 1 | 15/05/2018 | Due accuracy | 1 |
| BBC News | BBC 1 | 25/08/2018 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 17/09/2018 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 20/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| BBC News | BBC 1 | 23/09/2018 | Due impartiality/bias | 1 |
| BBC Radio 2: Live in Hyde Park (trailer) | BBC 1 | 08/09/2018 | Generally accepted standards | 1 |
| Bodyguard | BBC 1 | 23/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| Breakfast | BBC 1 | 22/09/2018 | Due impartiality/bias | 1 |
| Casualty | BBC 1 | 22/09/2018 | Animal welfare | 1 |
| Council House Crackdown | BBC 1 | 18/09/2018 | Race discrimination/offence | 1 |
| EastEnders | BBC 1 | 13/09/2018 | Nudity | 1 |
| EastEnders | BBC 1 | 20/09/2018 | Generally accepted standards | 1 |
| EastEnders | BBC 1 | 24/09/2018 | Generally accepted standards | 2 |
| EastEnders | BBC 1 | 24/09/2018 | Offensive language | 1 |
| EastEnders | BBC 1 | 24/09/2018 | Violence | 2 |
| EastEnders | BBC 1 | 25/09/2018 | Disability discrimination/offence | 2 |
| EastEnders | BBC 1 | 25/09/2018 | Scheduling | 1 |
| EastEnders | BBC 1 | 27/09/2018 | Violence | 3 |
| Holby City | BBC 1 | 18/09/2018 | Generally accepted standards | 1 |
| Holby City | BBC 1 | 25/09/2018 | Offensive language | 1 |
| Murder, Mystery and My Family | BBC 1 | 07/03/2018 | Due impartiality/bias | 1 |
| Programming | BBC 1 | 23/09/2018 | Religious/Beliefs discrimination/offence | 1 |

| Programme | Service | Transmission or Accessed Date | Categories | Number of Complaints |
|--|--------------------|-------------------------------|---|----------------------|
| Question Time | BBC 1 | 27/09/2018 | Due impartiality/bias | 1 |
| Songs of Praise | BBC 1 | 23/09/2018 | Outside of remit | 1 |
| Strictly Come Dancing | BBC 1 | 22/09/2018 | Gender discrimination/offence | 4 |
| The One Show | BBC 1 | 31/08/2018 | Sexual orientation discrimination/offence | 1 |
| The One Show | BBC 1 | 24/09/2018 | Generally accepted standards | 1 |
| Wanderlust | BBC 1 | Various | Generally accepted standards | 1 |
| Only An Excuse? | BBC 1 Scotland | 31/12/2017 | Religious/Beliefs discrimination/offence | 1 |
| Indiana Jones and the Kingdom of the Crystal Skull | BBC 2 | 16/09/2018 | Offensive language | 1 |
| Mock The Week | BBC 2 | 07/09/2018 | Race discrimination/offence | 1 |
| We are British Jews | BBC 2 | 05/09/2018 | Religious/Beliefs discrimination/offence | 1 |
| BBC News | BBC channels | 01/01/2017 | Due impartiality/bias | 1 |
| Programming | BBC channels | Various | Due impartiality/bias | 1 |
| Programming | BBC channels | Various | Due impartiality/bias | 1 |
| Mock the Week | BBC iPlayer | 23/09/2018 | Race discrimination/offence | 1 |
| Programming | BBC iPlayer | 15/04/2018 | Outside of remit | 1 |
| Question Time | BBC iPlayer | 13/05/2018 | Race discrimination/offence | 1 |
| BBC News | BBC News Channel | 17/09/2018 | Due impartiality/bias | 1 |
| Greg James Breakfast Show | BBC Radio 1 | 10/09/2018 | Generally accepted standards | 1 |
| Radio 1 ticket promotions | BBC Radio 1 | 10/09/2018 | Commercial communications on radio | 1 |
| Scott Mills | BBC Radio 1 | 25/09/2018 | Other | 1 |
| Programming | BBC Radio 1extra | 15/09/2018 | Race discrimination/offence | 1 |
| Jeremy Vine | BBC Radio 2 | 17/09/2018 | Dangerous behaviour | 1 |
| Jeremy Vine | BBC Radio 2 | 18/09/2018 | Sexual material | 1 |
| Jeremy Vine (trailer) | BBC Radio 2 | 20/09/2018 | Generally accepted standards | 1 |
| BBC News | BBC Radio 4 | 01/01/2011 | Due accuracy | 1 |
| Rob Newman's Total Eclipse of Descartes | BBC Radio 4 | 12/09/2018 | Race discrimination/offence | 1 |
| Today | BBC Radio 4 | 19/09/2018 | Due impartiality/bias | 1 |
| Programming | BBC Radio Scotland | 27/08/2018 | Other | 1 |
| Programming | BBC Radio Scotland | 26/09/2018 | Generally accepted standards | 1 |
| Sportsound | BBC Radio Scotland | 23/09/2018 | Other | 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 17 and 30 September 2018.

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

| Programme | Service | Transmission date |
|---------------------------------|-------------------------|-------------------|
| Lunch with Lewi | 883 Centreforce | 30/08/2018 |
| Dog and Beth: On The Hunt | CBS Reality+1 | 16/08/2018 |
| Undercover Girlfriend (trailer) | Channel 5 | 24/08/2018 |
| Roast Battle Week (trailer) | Comedy Central Extra +1 | 14/09/2018 |
| Nick Ferrari | LBC 97.3 FM | 04/09/2018 |
| Qutab Online | Samaa | 21/06/2018 |
| Sheffield In Focus | Sheffield Live | 31/07/2018 |
| UEFA Nations (trailer) | Sky Witness | 05/09/2018 |
| Steg G In The Morning | Sunny Govan Radio | 17/09/2018 |
| Automated Payout | Tudno FM | 21/08/2018 |

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 General Procedures for investigating breaches of broadcast licences

| Licensee | Licensed Service |
|--------------------------------|-------------------------|
| A&A Inform Limited | Russian Hour |
| Cira Media Productions Limited | Cira TV |
| Global Tamil Vision Ltd | Global Tamil Vision |
| Netplay TV Group Limited | SUPERCASINO.COM |
| Prime Bangla Limited | Channel i |
| Sunbiz (PVT) Ltd | 7 News |
| TMCRFM Limited | TMCR |

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