

Ofcom Broadcast Bulletin

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Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act².

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

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

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.

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 the content in television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.

Standards cases

In Breach

Tattoo Nightmares: Miami

truTV, 6 July 2015, 20:00

Introduction

Tattoo Nightmares: Miami is an American factual entertainment television series. It features participants who ask tattooists to cover up a tattoo, or change an existing tattoo. The programme is shown on truTV, a general entertainment channel that broadcasts on digital terrestrial and satellite platforms. The licence for truTV is held by Turner Broadcasting System Europe Limited (“Turner” or “the Licensee”).

Ofcom received one complaint that an episode broadcast at 20:00 contained offensive language. We assessed the material, and noted that it contained eight instances of the word “*fuck*” or “*fucking*”.

Ofcom considered the use of the words “*fuck*” and “*fucking*” in this material raised issues warranting investigation under Rule 1.14 of the Code, which states:

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

We therefore requested comments from Turner as to how the programme complied with this rule.

Response

The Licensee apologised for broadcasting this version of the programme before the watershed and confirmed “it was never [its] intention to do so.” Turner said it has “a clear policy to deal with language that has the potential to cause offence, which entails bleeping or muting the words completely and obscuring the lips where lip reading of the words is possible.”

The Licensee explained that this episode was complied by an experienced freelance compliance analyst who made a mistake. Turner that said, although the instructions for complying the programme stated it would be transmitted at 20:00, the compliance analyst prepared the programme for a 21:00 transmission and therefore included the offensive language.

Turner said that it has “taken steps to reinforce [its compliance] policies with freelance employees and reinforced the need for strict attention to detail in order to prevent a recurrence.”

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research on offensive language¹ clearly notes that the word “fuck” and other variations of this word are considered by audiences to be among the most offensive language. Such language is unacceptable before the watershed.

Ofcom acknowledged that this programme was broadcast pre-watershed in error. We also noted that the Licensee said it had taken steps to improve compliance in this area. Nonetheless, this programme contained eight instances of the most offensive language. There was therefore a clear breach of Rule 1.14.

In issue 267 of Ofcom’s Broadcast Bulletin² Ofcom recorded a breach of Rule 1.3 against the Licensee, also in respect of pre-watershed programming on truTV. In that case the Licensee explained that the breach had been caused by an error during its editing process and as a result it had “introduced an additional process to check programmes after they [had] been edited”. Ofcom was concerned that this improvement to its compliance procedures had not been sufficient to prevent this similar breach.

Breach of Rule 1.14

¹ Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>).

² <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb268/obb267.pdf>

In Breach

The Voice UK: the Live Final

BBC1, 4 April 2015, 19:00

Introduction

During *The Voice UK: the Live Final*, Emmanuel Nwamadi performed the song *Somebody that I Used to Know*. Ofcom received one complaint that his performance included flashing images, without any warning beforehand.

Certain types of flashing images can trigger seizures in viewers who are susceptible to photosensitive epilepsy (“PSE”). Ofcom therefore carried out an assessment of the broadcast content against Ofcom’s Technical Guidance to broadcasters on flashing images (the “PSE Guidance”). The PSE Guidance states that a sequence containing flashing at a rate of more than three flashes per second which exceeds specific intensity thresholds may be potentially harmful. The technical assessment of the flashing images in this performance found that on two occasions they failed to comply with the PSE Guidance.

These failures were caused by Perspex-type lighting columns pulsing rapidly on and off. The first failure lasted just over a second and a half, during which there were approximately 12 distinct flashes. The second failure was more severe, as it involved more intense brightness changes over a larger area of the screen. This failure lasted over three and a half seconds, during which there were approximately 20 flashes.

Ofcom considered the material raised issues under Rule 2.12 of the Code, which states:

“Television broadcasters must take precautions to maintain a low level of risk to viewers who have photosensitive epilepsy. Where it is not reasonably practicable to follow the Ofcom guidance (see the Ofcom website), and where broadcasters can demonstrate that the broadcasting of flashing lights and/or patterns is editorially justified, viewers should be given an adequate verbal and also, if appropriate, text warning at the start of the programme or programme item”.

We therefore asked the BBC how this material complied with this rule.

Response

The BBC said that a number of mistakes were made during production which led to this failure. It stated that *The Voice UK* is made for the BBC by the independent production company Wall to Wall. During the dress rehearsal for this episode, the production team ran a test for compliance with the PSE Guidance, which recorded a fail. The lighting director was notified, and remedial action was taken, which the production team wrongly believed corrected the problem sufficiently to pass the test. The broadcaster added that under its procedures if lighting was tested for compliance with the PSE Guidance and it failed, it was compulsory to refer the matter to the BBC’s Commissioning Editor. No referral was made in this case.

As a result of these compliance errors, the BBC said it had reminded the independent production company of its responsibilities in this area. It has also put in place new procedures to avoid any future recurrence.

The BBC stated that Wall to Wall have confirmed that the above response represented its view and it did not wish to make separate representations regarding the programme. Wall to Wall added that it sincerely regretted that its usually robust compliance systems failed in this instance.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “generally accepted standards are applied to the content of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material”.

Given the significant potential for harm to viewers with PSE who are exposed to flashing images, Rule 2.12 makes clear that Ofcom expects broadcasters to maintain a low level of risk in this regard. Further, the PSE Guidance, which was developed with input from medical experts, sets out technical parameters which are intended to reduce the risk of broadcast content provoking seizures.

In this case, Ofcom’s technical assessment of the material found two occasions, lasting a combined total of over five seconds, where the flashing lights exceeded the maximum limits set out in the PSE Guidance. This therefore posed a significant risk of harm to viewers in the audience with PSE.

Ofcom assessed whether it was “reasonably practicable” for the BBC to have complied with the technical parameters set out in the PSE Guidance to eliminate or sufficiently minimise the flashing images. We noted that the programme was broadcast live, but a dress rehearsal took place during which the material failed a test for compliance with the PSE Guidance. Therefore there was clearly an opportunity to take measures either to minimise or omit the flashing images which breached the PSE Guidance, and it was reasonably practicable in this case for the BBC to have complied with the technical parameters in the PSE Guidance. As a result, it was not necessary for Ofcom to go on to consider whether the inclusion of the flashing images was editorially justified, and whether an adequate warning was given.

Ofcom noted that the BBC has put in place new procedures to avoid any future recurrence. However, this broadcast contained flashing images at levels which significantly exceeded the technical limits in the PSE Guidance. The broadcast was therefore in breach of Rule 2.12 of the Code.

Breach of Rule 2.12

In Breach

Give a Pet a Home

ITV, 15 April 2015, 21:00

Introduction

Give a Pet a Home is a series in which viewers are encouraged to adopt an animal from a RSPCA animal centre. The programme is compiled by ITV Broadcasting Limited (“ITV”) on behalf of the ITV Network.

Ofcom reviewed the programme, which featured a range of animals and their rehoming needs. Individual animals were ‘championed’ by celebrities who encouraged viewers to apply to rehome them by contacting the programme’s website.

At the start of the programme, potentially interested viewers were informed they would need to pay a fee in the event of a successful adoption:

“Now every animal waiting to be adopted from the RSPCA has an adoption fee which varies according to the type of animal. Included in this fee is a whole range of essential treatments for your new pet. Not only will a full course of vaccinations have been given, your animal will also have been neutered, microchipped and given a worm and flea treatment. Also, for cats and dogs, the fee includes six weeks of pet insurance, because keeping a pet can be a really expensive business. So please think carefully before you apply to adopt any of our animals.”

At various points during the programme, the presenter and guests referred to the specific adoption fee which applied to each animal featured, including the following:

“She’s just fabulous. She’d be a great family cat. Obviously you pay the adoption fee, which for cats is 75 – £75 for cats and I’m just so desperate for her to find a great home.”

“Harley’s adoption fee is only £150. Don’t forget the adoption fee includes a whole range of vet treatments, as well as six weeks’ pet insurance.”

“If you fancy giving a mouse a house... or you’ve fallen in love with Alaska and Atlanta [two rabbits] and would love to give them a home, you need to go to the website after the show, where you can find all their details and how to apply to adopt them. And with a fee of only £12 for the mice – well, that’s a bargain – or only £60 for both of those bunnies, why wouldn’t you want to do that?”

At the end of the programme, each of the animals featured in the programme were briefly shown, with a strap stating each animal’s specified adoption fee.

Ofcom considered that the references to the RSPCA’s adoption activities in the programme raised potential issues under the following Code rules:

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

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

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

We therefore sought information from ITV about the RSPCA’s involvement in the programme as well as ITV’s comments as to how the programme complied with these rules.

Response

ITV provided details of the arrangement between the programme producer and the RSPCA. This demonstrated that the charity had been paid a fee for allowing the programme to be made at one of its centres, but made clear that ITV retained editorial control over the content.

ITV said that the programme necessarily referred to the RSPCA and the work of the animal centre, as it was the location where the material was filmed. However, it believed that the focus of the editorial content was the featured animals. The Licensee continued that although the programme encouraged viewers to consider animal adoption, it was careful to refer not only to the RSPCA’s work in this area but also to that of other animal rescue charities. It said that the programme website offered information and links to a wide range of such charities across the UK and that the programme never suggested that the RSPCA was preferable or superior to these other charities.

ITV explained that the calls to action to viewers to apply to rehome the featured animals always directed them to the ITV’s website and not to the RSPCA. These calls to action set out the specific needs of the animal concerned, and the adoption fee for the animal. It said that the fees were non-profit making and varied depending on the type of animal and its particular needs, but generally included a range of services, including veterinary checks and vaccinations.

ITV submitted that many factual programmes tend to focus on the work of a particular animal charity or other organisation and gave examples of such programmes. Although the RSPCA’s centre featured throughout the series, ITV said that rehoming and adoption is merely one aspect of the charity’s work in promoting animal welfare. It therefore did not consider that, in encouraging viewers to consider re-homing an animal, the programme was promotional of the RSPCA.

As the programme was filmed at an RSPCA animal centre, and featured animals being treated and cared for there, the Licensee considered that references to the charity and the centre were necessary. However, it said that both the programme-makers and the ITV compliance advisor working on the series were careful to ensure that such references, both verbal and visual, were editorially justified and not unduly prominent.

ITV continued that while the programme occasionally referred to the centre’s name where it was deemed necessary for the narrative of the programme, at other times the programme deliberately referred to the centre as “the hospital”. ITV also argued

that, when discussing the work of the RSPCA, the programme was careful to also reference that of other animal rescue charities.

In response to Ofcom's Preliminary View that the programme was in breach of the Code, ITV made a number of additional points.

ITV contested Ofcom's Preliminary View that the quotations from the programme (cited in the Introduction above) served a promotional purpose. The Licensee considered that the purpose of the language used by the presenter was to provide information to viewers, including explaining the standard procedures that any veterinarian would suggest to a pet owner for the health and wellbeing of their animal. For example, ITV considered that one statement¹ simply reminded viewers that the fee included a range of vet treatments and six weeks insurance. Similarly, the Licensee viewed the reference to keeping a pet as being a "*really expensive business*" as no more than a statement of fact which served as a responsible reminder to the viewer that keeping an animal as a pet can involve onerous financial consequences.

Although ITV acknowledged that in one of the quotations cited the presenter had used some conversational language, it considered that the presenter's reference to the fee for mice being "*a bargain*" simply reflected that the fee for these animals was modest compared with others in the programme. The comment "*why wouldn't you want to do that?*" in relation to the fee for the two rabbits, ITV considered to be merely an expression of enthusiasm for the idea of viewers offering these animals a new home rather than promotional.

Further, ITV did not accept that the programme contained repeated references to adoption fees. It said that, in relation to each animal, the fee was mentioned only once by the presenter in a link following a video about the animal, and once again in a final summing-up at the end of the programme. ITV did not believe this to be excessive or "undue", given that the information was bespoke to each animal, and that the concept of viewers applying to adopt them was a central editorial theme of the show. Although it noted that the programme encouraged viewers to consider adopting the animals featured – and accordingly sought to make clear the specific fees involved – ITV did not agree with Ofcom's Preliminary View that the programme promoted the benefits provided by these fees. The fees were tied specifically to a particular animal in each case, not to a general promotion of the benefits of the RSPCA's re-homing services, with the purpose of providing transparent information to the viewer regarding the process of re-homing.

Further, the Licensee stated that the adoption fees cited were non-profit generating, reflecting the costs to the RSPCA of the adoption process, depending on the animal concerned. As a result, the Licensee said that the references to the fees were not "commercial" in the sense of being related to a commercial transaction, or offering a product to the public with the intention of making a profit. Instead, they were an invitation to apply to a charity to provide a home for a specific unique animal. ITV said the programme made clear that the RSPCA would decide whether the applicants were in fact suitable to provide a new home for the animal, given its specific needs.

In conclusion, ITV said that many viewers love animals and have a keen interest in animal welfare, and it believed that it was editorially justified and legitimate for this

¹ "Harley's adoption fee is only £150. Don't forget the adoption fee includes a whole range of vet treatments, as well as six weeks' pet insurance."

programme to focus on particular animals that needed a loving home. Although the explicit calls to action to viewers to apply to rehome particular animals might therefore be considered a key element of this programme, ITV did not consider that this constituted promotion of the RSPCA or its services. The Licensee believed that in its treatment of the charity, the programme was similar in its general tone to a number of other animal welfare themed programmes, featuring different animal charities, broadcast by ITV in recent years.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure specific standards objectives, including “that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. These obligations include ensuring compliance with the Audiovisual Media Services (“AVMS”) Directive.

The AVMS Directive requires, among other things, that television advertising is kept visually and/or audibly distinct from programming. The purpose of this is to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising.

The requirements of the AVMS Directive and the Act are reflected in Section Nine of the Code. The rules in this section serve to protect viewers from both excessive commercial references in programming and from surreptitious advertising by:

- limiting the extent to which references to products, services and trade marks can feature in programming;
- requiring that viewers are made aware when a reference to a product, service or trade mark features in programming as a result of a commercial arrangement between the broadcaster or producer and a third party funder; and
- helping to ensure that broadcasters do not exceed the limits placed on the amount of advertising they can transmit.

The Code makes clear that, in relation to Section Nine, a commercial reference is “Any visual or audio reference within programming to a product, service or trade mark (whether related to a commercial or non-commercial organisation)”.

Section Nine does not prevent broadcasters transmitting programmes about particular organisations (whether they are commercial or non-commercial in nature). Licensees are free to cover whatever subjects they wish in programmes, provided they comply with the Code. In relation to Section Nine, this means ensuring that a distinction is maintained between programming and advertising. To comply with the rules in Section Nine, a programme’s narrative must therefore always serve an editorial end: its purpose must not be, or appear to be, to promote the products or services of a third party.

Ofcom recognises that broadcasters may choose to feature the work of a particular organisation, such as the RSPCA, in programming. However, in doing so, it is important that a programme retains a clear editorial focus to avoid coming into conflict with the Section Nine rules.

In this case, Ofcom noted that *Give a Pet a Home* set out to focus on specific animals and their needs but also encouraged viewers to consider whether animal adoption was likely to be suitable for them. The programme pointed to a range of factors that viewers would need to consider if applying to rehome animals, including the needs of certain animals for training, exercise and company. As such, Ofcom accepted there was clear editorial justification for the programme to be located at an RSPCA adoption centre and to focus on its activities.

However, in addition to telling viewers about each animal's history, attributes and needs, the programme presented a range of additional information about the specific adoption fee charged by the RSPCA for each featured animal, and the rehoming services that viewers could expect to receive if they wished to pay that fee.

Ofcom acknowledged that, in the interests of transparency for viewers, limited references to the existence of adoption fees were editorially justified. We also noted that the programme appealed for viewers who wanted to adopt the featured animals to contact ITV's own website, rather than the RSPCA directly. However, overall, Ofcom did not consider that the references in the programme to the RSPCA's adoption fees and rehoming services were sufficiently limited.

In each of the 'call to action' sequences to encourage viewers to consider adopting the individual animals featured, there were repeated references to the specified adoption fees for each animal, as well as a number of details about the benefits provided by these fees, as identified in the quotations cited above. Although noting ITV's view that these statements were included for informational, rather than promotional, purposes, Ofcom considered that the language used in these 'calls to action' did emphasise the value to potential consumers offered by the RSPCA's adoption fee and the breadth of rehoming services on offer from the RSPCA. As noted above, whether an organisation operates for a commercial or non-commercial purpose, any reference to its products, services or trademarks is treated as a commercial reference for the purposes of Section Nine of the Code. In our view, the overall effect of these references was to promote the specific rehoming services offered by the RSPCA, rather than simply to make viewers aware of the potential costs involved when rehoming a pet. We therefore concluded that the programme was in breach of Rule 9.4.

In addition, we noted the way in which these references appeared during the programme – namely in sequence after each featured animal was presented and then at the end of the programme when all the animals were shown again, coupled with a strap prominently stating each animal's adoption fee. Taking into account ITV's representations, we considered that these repeated references to the adoption fees and the benefits of the rehoming services offered by the RSPCA throughout the programme were unduly prominent, in breach of Rule 9.5.

Breaches of Rules 9.4 and 9.5

In Breach

Adam Catterall Drive Time

Key 103, 30 April 2015, 16:00

Introduction

Key 103 is a local commercial radio station which plays a broad range of music and speech targeted at 15 to 44 year-old listeners in Greater Manchester. The licence for the service is held by Key 103 Limited (“Key” or “the Licensee”), which is part of the Bauer Radio group.

A complainant alerted Ofcom to a competition in the programme. Listeners were invited to call a standard rate geographic number to win tickets to see the singer Taylor Swift. They needed to identify three songs in the order in which they were played during a montage of tracks by that artist. The competition, entitled “Bangers in Mash”, was intended to be repeated over several days until a winner was found.

On assessing the material Ofcom noted the following exchange around 16:17 between the presenter and a caller giving her answer to the competition:

Presenter: *“You know how this works, you’ve got to give me the full titles and you’ve got to give them to me in order. When you are ready; there are three I’m looking for...”*

Caller: *“‘Style’, ‘Mine’, and ‘Love Story’”.*

Presenter: *“[caller’s name] your ears are not deceiving you, but you’ve put them in the wrong order”.*

The Licensee confirmed that the correct names and order of the song titles for the competition were *‘I Knew You Were Trouble’, ‘Love Story’* and *‘Back To December’*.

Ofcom considered the material raised issues warranting investigation under Rule 2.14 of the Code which states:

“Broadcasters must ensure that viewers and listeners are not materially misled about any broadcast competition or voting”.

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

Response

The Licensee said that on each occasion after a caller gave their answer to the competition on air, the presenter was supposed to tell them how many songs they had identified in the correct order by stating “you’ve got none in the right order”, “you’ve got one in the right order”, “you’ve got two in the right order” or “you’ve got them all in the right order”. The Licensee explained that on this occasion the presenter unfortunately used the phrase *“you’ve put them in the wrong order”* instead of “you’ve got none in the right order”.

Key said this was a genuine error by the presenter and there was no intention to mislead listeners in any way. The Licensee said that, on realising his mistake, before the next item which directly followed on from the competition, the presenter clarified the result, saying, *“For those that are trying to play every single day, none in the right order just for your reference, alright, none in the right order, of what [caller’s name] said, but her ears are not deceiving her”*. The content controller spoke to the presenter following the competition and stressed the need to be very clear about how many answers callers get in the right order each day.

The Licensee did not accept that listeners would have been materially misled in these circumstances. Key added that it had contacted the complainant to apologise after they emailed the radio station, and had offered a pair of tickets to see Taylor Swift as an apology, which the complainant had accepted. Key also considered that duplicate incorrect entries made on later dates during the competition, indicated that “people were hearing the competition for the first time each time [it was run] and were not influenced by the phrase *‘your ears are not deceiving you’*”.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure standards objectives, including “that generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of...harmful material.”

This objective is reflected in Section Two of the Code. Rule 2.14 requires broadcasters to ensure that viewers and listeners are not materially misled about any broadcast competition.

In this case, the intended format of the competition was for listeners to guess the correct tracks in the order in which they were played. In response, the presenter was supposed to state how many songs had been correctly identified in the order in which they were played, but otherwise, not to give any information about the accuracy of the answers given by the entrants. In the Drive Time programme on 30 April 2015, however, we considered the presenter’s comment *“...your ears are not deceiving you, but you’ve put them in the wrong order”* was likely to lead listeners (who still had the opportunity to enter the competition) to believe that the caller had correctly identified all three songs, but in the wrong order. We also considered that, although the presenter sought to clarify his mistake, the phrase he used in his clarification – *“none in the right order...but her ears are not deceiving her”* – would have sustained this misleading impression for listeners.

The focus in the rule on *material* misleadingness is important as it clarifies that programming is likely only to be in breach of the rule in circumstances where actual or potential harm (or offence) may be caused to the audience. In this case, Ofcom considered the wording used by the presenter was likely to have caused confusion to potential entrants, prompting them to submit answers in the false belief that the caller had correctly identified each of the songs played during the montage, but in the wrong order. The fact that, days later, some listeners may have heard and entered the competition for the first time, and given duplicate incorrect entries (for whatever reason), did not detract from the likelihood that some listeners to the Drive Time programme on 30 April 2015 may have attempted to enter the competition in this false belief.

Ofcom noted that the complainant had accepted concert tickets that Key had offered by way of an apology.

Nevertheless, we concluded that the Licensee had failed to ensure that listeners were not materially misled about the broadcast competition, in breach of Rule 2.14 of the Code.

Breach of Rule 2.14

Resolved

Competition

Channel 5, 5 to 8 December 2014, various times

Introduction

During December 2014, Channel 5 Broadcasting Limited (“Channel 5” or the Licensee) regularly broadcast an invitation for viewers to enter a competition to win a holiday for two to Lapland and £1,000 spending money. Viewers could enter by premium rate (“PRS”) text message costing £1.50 plus users’ standard network rate, or by post. The closing date for text message entries was clearly stated on screen as being 5 January 2015.

Ofcom received four complaints from viewers who had attempted to enter the competition via text message between 5 and 8 December, but had received a reply advising them that the competition had closed and that they had been charged their standard network rate for submitting the text message.

Ofcom considered the matter raised issues warranting investigation under Rule 2.14 of the Code, which states:

“Broadcasters must ensure that viewers are not materially misled about any broadcast competition”.

We therefore asked the Licensee how the promotion of the broadcast competition complied with this Rule¹.

Response

The Licensee said it takes compliance of all stages of its PRS voting and competitions very seriously and, in accordance with the provisions of its Ofcom licences, its PRS broadcast usage is audited to ensure that appropriate compliance protections are built into the process. It said that it had contracted a new mobile supplier in July 2014 but before doing so, instructed its auditors to carry out a thorough review of the supplier’s processes and report any potential weaknesses.

In relation to the specific issue under investigation, Channel 5 explained that it had sent the correct opening and closing times for this competition to its mobile supplier and that this information had then been entered into the mobile supplier’s system. However, despite a double-check by another operator as per procedure, the closing date was incorrectly entered as 5 December 2014 instead of 5 January 2015. As a result, the lines closed a month earlier than scheduled.

The Licensee said that its Customer Services team work normal office hours Monday to Friday. Because the first contact about the lines being closed was not received until the next day (Saturday 6 December 2014), Channel 5 said that it was not aware of the issue until its Customer Service team reopened on Monday 8 December 2014. However, the Licensee added that the appropriate staff were notified as soon as

¹ Ofcom also considered whether Channel 5 may have breached the licence condition that requires verification of its use of premium rate telephony services. We concluded that Channel 5 had not breached this licence condition.

possible afterwards, it then contacted its mobile supplier and the lines were re-opened at 10:30am on Monday 8 December 2014.

Channel 5 explained that, although viewers attempting to enter while lines were closed would not have been charged the £1.50 PRS entry fee for the competition, they would have been charged their mobile carrier's standard network charge for one text message – between 10p and 12p per message. The Licensee said that it had identified 3,458 viewers who had been affected by the error. It said that each of these viewers were sent a text message which explained the incident² and offered a refund of the network charge via cheque. The Licensee said that it processed 42 requests for refunds and a cheque for £369.76 representing unclaimed network charges, was sent to a charity.

Channel 5 stated that it had discussed the incident with its mobile supplier, and as a result, a further safeguard had been implemented in the mobile supplier's process. It explained that the mobile supplier is now alerted by email before lines are due to close so that details can be re-checked to ensure the competition closes at the correct time. It added that while it appreciated that viewers were unable to enter the competition for a time, this was caused by human error at its mobile supplier and there had been no intention on the part of Channel 5 to mislead.

Channel 5 said that it sincerely regretted and apologised for the error in this case. However, it believed that "this was not a case where viewers were intentionally misled or where adequate compliance processes were not in place."

Channel 5 emphasised that affected viewers were not charged the premium rate for attempting to enter and pointed out that the issue was resolved very quickly once it came to the attention of the customer service staff. Although Channel 5 accepted that "viewers were inadvertently misled into believing that lines were open", it considered that "viewers were not intentionally or negligently misled" and that accordingly it "did not believe that the situation crossed the threshold of viewers being 'materially' misled." Channel 5 considered that the situation would have caused temporary annoyance to viewers rather than harm and/or offence.

Finally, the Licensee queried whether Ofcom expected Channel 5's customer services to be "manned 24/7" in order to prevent this situation in future or whether it should only broadcast competitions during the hours when Customer Services is open.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure standards objectives, including "that generally accepted standards are applied to the contents of television...services so as to provide adequate protection for members of the public from the inclusion in such services of...harmful material."

This objective is reflected in Section Two of the Code, which contains rules which are intended to protect audiences from broadcast content which is harmful or offensive.

² The text message stated "FreeMsg: Sorry you couldn't enter our Movies comp last weekend, it had closed in error. For a cheque refund for [10p or 12p depending on the network] please text REFUND to [text message entry number] by 23/12/14 with your full name, address and postcode or we will donate this to charity (reply text cost of [10p/12p] will be refunded). Comp now open if you'd like to try again."

In particular, Rule 2.14 requires broadcasters to ensure that viewers and listeners are not materially misled about any broadcast competition.

In considering this case, Ofcom first identified the circumstances in which, potentially, viewers may have been materially misled about Channel 5's broadcast competition. Those circumstances were that, during a three day period (including a weekend), viewers were led to believe that they could pay a charge to enter a competition when, for technical reasons, those entries were not capable of being registered or received. This meant that viewers who tried to enter the competition via text message during this time were unable to do so, while still being charged at their standard network rate.

Ofcom noted that human error on the part of a third-party mobile supplier caused the competition to be closed temporarily during the relevant weekend period. We noted that Channel 5 apologised for the error and inconvenience caused. We also noted that, in the Licensee's view, while audiences may have been "inadvertently misled", they were not "materially misled". This is because of the steps taken by the Licensee to rectify the harm which might have otherwise resulted.

Ofcom acknowledges that circumstances may arise where, as in this case, viewers are informed that they may enter a competition when in fact, for technical reasons, they are not able to do so. The key question for Ofcom to consider in determining whether or not a programme is in breach of Rule 2.14, is whether or not viewers have been 'materially' misled as a result. In such cases, harm may arise where the audience's trust in the broadcaster has been abused or undermined and/or where a viewer has paid to interact with a programme³.

In this case, a number of viewers were misled into believing that they could enter a competition over a three day weekend period when this was not in fact the case. As a result, those viewers were charged a fee at their standard network rate. We noted that, despite the attempts made by viewers to alert Channel 5 to the technical fault over the weekend of Saturday 6 and Sunday 7 December 2014, the Licensee's Customer Service team did not receive that communication until the morning of 8 December 2014. This meant that the broadcaster continued to promote a closed competition for a considerable time after viewers had first tried to raise concerns that they were unable to enter.

Ofcom also noted, however, the steps that were taken by Channel 5, first to minimise the risk of the fault occurring in the first place (through its audit of the new supplier and by instigating a 'two person' check when inputting data), secondly to rectify any harm that may have arisen to viewers by offering refunds to all affected entrants, and thirdly, to minimise the risk of a recurrence by arranging an additional checking stage in the mobile supplier's processes. Taking these factors into account, Ofcom considers the matter resolved.

With respect to Channel 5's specific query, as to Ofcom's expectations regarding the availability of its Customer Services when conducting competitions, our published Guidance⁴ states that "where a broadcaster's compliance system for a broadcast competition or vote is inadequate or fails, this may give rise to a breach of [Rule 2.14] if the audience has been misled about the standards it can reasonably expect for

³ See pages 6-7 of Ofcom's "Guidance Notes Section 2: Harm and Offence" at <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>

⁴ See Ofcom's Guidance to Section Two of the Code at: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>

treatment of its communication with broadcasters.” It is not for Ofcom to determine how broadcasters should best communicate with their audiences when conducting competitions, nor prescribe reasonable expectations as to standards which will apply in every case. Broadcasters may, however, wish to consider whether it would be appropriate to put in place contingency measures in circumstances where competitions are being conducted outside of normal contact hours.

Resolved

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with ‘Key Commitments’

City Beat Preston, 3, 5 and 7 June 2015

Introduction

City Beat Preston is a community radio station licensed to serve “people who live, work or study in the environs of the city of Preston”. The licence is held by Preston Community Radio 23 (“City Beat Preston” or “the Licensee”), and the station recently changed its name (from Preston FM) following a change of ownership.

Like other community radio stations, City Beat Preston is required to deliver the ‘Key Commitments’ which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Ofcom received two complaints alleging that City Beat Preston was failing to provide the community-focused output required by its licence.

We requested recordings of three days of City Beat Preston’s output, covering Saturday 11, Monday 13, and Tuesday 14 April 2015. After monitoring this output we identified some potential issues with City Beat Preston’s delivery of the following Key Commitment:

“The speech output includes news and sport programmes, local and community news and information, interviews, specialist magazine programmes and other programmes focussing on matters of local interest as well as on topics relevant to particular groups within the target area.”

We asked the Licensee to signpost any examples of local and community news within the audio. The Licensee responded that the station was going through several changes, including re-branding, moving to new premises, and changing its programme schedule. In light of this information, and the fact that the Licensee had only recently taken control of the licence, we decided to give City Beat Preston an opportunity to implement its planned changes before considering its output further.

Subsequently we requested further recordings of three days of City Beat Preston’s output, covering Wednesday 3, Friday 5, and Sunday 7 June 2015. After monitoring this output we identified an ongoing potential issue with City Beat Preston’s delivery of the above Key Commitment, in particular with regard to the provision of local and community news.

¹ The Key Commitments are contained in an annex to City Beat Preston’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000158.pdf>.

Ofcom considered that the issue warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to City Beat Preston's licence. These state, respectively:

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

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

We therefore requested City Beat Preston's comments on how it was complying with these conditions, with reference to the specific Key Commitment set out above.

Response

The Licensee stated that it provided weather and news hourly during daytime, as well as regular traffic updates in the morning. It noted that the "Live Lunch" programme, broadcast every weekday, provided community-based content and that its arts and music programmes, broadcast on Sunday, provided local information about upcoming events. With respect to community news specifically, the Licensee pointed to the "community noticeboard" broadcast on 3 June 2015. It added that from 1 July 2015, the community noticeboard would be broadcast hourly.

The Licensee further stated that its Tuesday evening talk show (which was not among the monitored days in June 2015) included general chat and local information. It added that it was actively seeking to increase community "talk" output by finding suitable volunteers.

The Licensee noted that it had worked hard to improve the station's compliance with its Key Commitments since the licence was transferred to it in October 2014. It also said that it was in talks with a local newspaper to provide local news bulletins, which it hopes to broadcast daily from September 2015.

Finding

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Regarding the station's output on 3, 5 and 7 June 2015, Ofcom noted that the station broadcast hourly bulletins from Sky News, which provided national and international news. Several programmes further provided local weather and traffic information, as well as interviews and specialist content on local arts and music. In addition, the community noticeboard of approximately 45 seconds broadcast on 3 June 2015 provided information on two upcoming local events (a Sea Cadets charity sale and a computer course).

We considered that this output broadly satisfied the station's Key Commitment to provide local and community "information, interviews, specialist magazine programmes and other programmes focussing on matters of local interest".

However, the content we monitored failed to deliver the “local and community news” that is also required by the Key Commitments. The output did not feature any noteworthy local news stories from the Preston area. Contrary to the Licensee’s submission, we did not consider the brief community noticeboard broadcast on 3 June 2015 satisfied the station’s Key Commitment to deliver “local and community news”.

Ofcom considers that local news is an important aspect of community radio, ensuring that the station’s target community is kept informed of local issues affecting residents and forming a key part of its locally-relevant content.

We acknowledged that the Licensee had relatively recently taken control of the radio station, and welcomed the steps it said it was now taking to improve its local news coverage. Nonetheless, it was clear that, during our monitoring period, City Beat Preston failed to deliver the local and community news output required by its Key Commitments, therefore breaching Licence Conditions 2(1) and 2(4).

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Preston Community Radio 23 (licence number CR000158).

In Breach

Broadcasting licensees' late and non- payment of licence fees

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles¹. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables².

The payment of a licence fee is a requirement of a broadcasting licence³. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

In Breach

The following licensees failed to pay their annual licence fees in accordance with the required payment date. These licensees have therefore been found **in breach** of their broadcast licences. The outstanding fees have now been paid.

Licensee	Licence Number	Service Name
Age UK Services Limited	DP000160BA	The Wireless
GTMN Limited	RLCS000097BA	Global Tamil Broadcasting Corporation (GTBC)
Paigham Radio Limited	DP100544BA	Radio Paigham
Sunshine FM Limited	DP100000BA	Sunshine Radio

Breach of Licence Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licences.

1

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

2 http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff_Tables_2015_16.pdf

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

Fairness and Privacy cases

Not Upheld

Complaint by Mr Abdul Hannan made on behalf of Mr Abdul Mannan

News, CHSTV, 10 and 11 March 2015

Summary

Ofcom has not upheld this complaint made by Mr Abdul Hannan on behalf of his brother, Mr Abdul Mannan, of unwarranted infringement of privacy in the programme as broadcast.

The programmes reported on the murder of Mr Shuel Hussein. As part of the report, the victim's father, Mr Mannan, was named and information on the location of the family business and his house was reported.

Ofcom found that, in the particular circumstances of this case, Mr Mannan did not have a legitimate expectation of privacy with regard to the broadcast of his name and information relating to the location of his house in the programme. Therefore, Mr Mannan's privacy was not unwarrantably infringed in the programme as broadcast.

Introduction and programme summary

CHSTV broadcasts a variety of programming content mainly in Bengali and is targeted at the Bengali community living in the UK. CHSTV is available on cable and satellite platforms.

On 10 and 11 March 2015, CHSTV broadcast an edition of its news programme which featured a report on the murder of Mr Shuel Hussain, Mr Hannan's nephew and Mr Mannan's son.

A transcript in English (translated from the original Bengali) of the programme was prepared by a translation company for Ofcom. Both parties to the complaint confirmed that the translated transcript accurately represented the content of the programme, and that they were satisfied that Ofcom could use the translated transcript for the purpose of considering whether or not to entertain the complaint and for any subsequent investigation.

The programmes

On 10 and 11 March 2015, CHSTV broadcast an edition of its news programme. The newsreader in the studio introduced the news story about the murder of Mr Shuel Hussain.

Footage of the outside of a cash and carry shop was then shown and the reporter said:

"Beside Markham Avenue in the Bengali residential area in Leeds, the main city of Yorkshire, a British Bangladeshi was killed on Monday night, 9th of March".

A photograph of Mr Shuel Hussain was shown during which the reporter said:

“His name was Mohammed Shuel Hussain. He [was] about 30 years old”.

The reporter continued and said:

“The local Bangladeshis think that he was killed with gun shots fired from a very close distance. The father of the killed person, Mr Mannan Hussain [Mr Mannan], has been a resident of Leeds for a long time. He is highly grieved by losing his third of six children. We have learnt that they are originally from the Biani Bazar of Sylhet [an area in Bangladesh]”.

This narrative was interspersed with footage of a police officer speaking with two people standing near a road and then footage of three people stood on the street.

Footage of the outside of a house and the outside of the cash and carry shop was then shown. The reporter said:

“This cash and carry shop in the centre of the Bengali residential area was once the family business of Mr Shuel Hussain. Shuel Hussain and his brothers used to work in this shop. Having been attacked by the miscreants, just after 9pm, the seriously wounded Shuel Hussain entered their previous business organisation [to] try to save his life. We have been able to [find out] details of the incident from the Chairman of Shahjala Mosque Committee, Haji Abdul Latif”.

Mr Latif then spoke about the incident to the camera. Mr Latif said that there was a knock on his door and a person named “Zia” asked if he “knew the house of Mannan”. He said that Zia informed him that Mr Hussain’s son [Mr Mannan’s son] had been attacked. Mr Latif said that he went with Zia to Mr Shuel Hussain and “saw an English [man], approximately of the same age as him [Mr Shuel Hussain], was putting force on his chest and I saw blood”.

Mr Sayid Ahmed, the Secretary of Leeds Bangladeshi Centre, was then shown stood next to another unknown person and he said:

“We will work with the police so that the police investigate the matter fully to arrest criminals behind this murder”.

The reporter then stated that the “police could not identify the killer yet” and footage of a mobile telephone was shown in which a police officer was heard saying:

“We haven’t got a statement at the present time, what I would suggest is that you keep looking at our website and they’ll be something on there later this morning”.

No further footage or comments relating to the murder or Mr Mannan were included in the programme. The programme broadcast on 11 March 2015 contained the same material.

Summary of the complaint and the broadcaster’s response

In summary, Mr Hannan complained on behalf of Mr Mannan that Mr Mannan’s privacy was unwarrantably infringed in the programme as broadcast because he was named and his address was revealed in the news report without his consent.

Mr Hannan said that his brother was shocked and distressed by the murder of his

son on 9 March 2015. He said that a reporter came to Mr Mannan's house, but that his brother had refused to be filmed by the reporter. Mr Hannan said that his brother was in fear about his name being revealed in the programme because the perpetrators were still at large.

In response to the complaint, CHSTV said that it was very sorry for the loss of Mr Mannan's son and sent sincere condolences to him and his family. CHSTV said that it had spoken to its reporter, Mr M G Kibria, who stated that he had not forcibly entered the premises of Mr Mannan. CHSTV said that there was no footage of the interview broadcast. CHSTV said it did not intend to cause any grievance or harm to anyone and that it was simply trying to bring a factual report to its viewers.

CHSTV stated that Mr Mannan is a public figure in the community and that it felt by reporting this incident, it was assisting in the process of helping the police to catch the perpetrators and encourage any witnesses to come forward.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from 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 the programme agreed by both parties and both parties' written submissions.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing rights 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 which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

We considered Mr Hannan's complaint that his brother's privacy was unwarrantably infringed in the programme as broadcast because he was named and his address was revealed in the news report without his consent.

In assessing this head of complaint, Ofcom had particular regard to Practice 8.6 of the Code. This states that if the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. We also had regard to Practices 8.2 and 8.3. Practice 8.2 states that information which discloses the location of a person's home or family should not be revealed without permission, unless it is warranted. Practice 8.3 provides that when people are caught up in events which are covered by the news they still have a right to privacy both in the making and the broadcast of a programme, unless it is warranted to infringe it. This applies to both the time when these events are taking place and to any later programmes that revisit those events.

Ofcom began by assessing the extent to which Mr Mannan had a legitimate expectation of privacy in regard to the material about him included in the programme as broadcast.

As set out in the "Introduction and programme summary" section above, the programme included a report on the murder of Mr Mannan's son and during this report, Mr Mannan was named as the father of the victim, and information about the general location of his residence and his family's cash and carry business was also reported in the programme as being in the area where the murder took place and Mr Hussein died.

The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself.

In this particular case, we had regard to the fact that the programme reported on the recent murder of Mr Mannan's son, an event which was clearly upsetting and distressing for Mr Mannan. Ofcom further noted that the programme itself was a news report which provided information about the murder of Mr Mannan's son, and that Mr Mannan was named in the report as the victim's father. In addition, Ofcom noted that while it understood that Mr Mannan had been approached by a reporter from CHSTV with a view to obtaining an interview from him, no footage of Mr Mannan himself was shown in the programme as broadcast, and nor was anything particularly private or sensitive revealed about Mr Mannan other than the fact that he was the victim's father.

We also had regard to the broadcaster's response in which it said that Mr Mannan was a public figure in the community. We noted that during an interview about the incident, one individual, recounting to the reporter a discussion he had had with a witness to the event, said he was asked by the witness whether he "*knew the house of Mannan*" and was told that Mr Mannan's son had been attacked. Given this, it was our view that the information included in the programme about Mr Mannan's relationship with the murder victim was essentially factual information that was recounted as part of a news report into the murder, which was widely reported at the time, rather than information which was of a particularly private or sensitive nature. Therefore, we did not consider that, in the particular circumstances of this case, the inclusion of Mr Mannan's name in the programme as broadcast was information in relation to which he had a legitimate expectation of privacy.

Ofcom recognises that an individual may have a legitimate expectation of privacy in relation to the broadcast of information which discloses the location of a person's home or family depending on the circumstances. However, Ofcom also noted that in this case Mr Mannan's full address was not revealed in the programme, and instead

the programme only included the general location of his home and family business, as well as information about the area where his family was originally from in Bangladesh. Therefore, we did not consider that the inclusion of the general location of Mr Mannan's home and family business was sufficient to identify the actual location of Mr Mannan's home. For the above reasons, we considered that this was not information in relation to which he had a legitimate expectation of privacy in the circumstances.

Therefore, taking all the above factors into consideration, it was our view that, in the particular circumstances, Mr Mannan did not have a legitimate expectation of privacy in relation to the broadcast of the footage which named Mr Mannan as the victim's father and included information about the general location of his house without his consent. Consequently, it was not necessary for Ofcom to go on to consider whether any infringement of Mr Mannan's privacy was warranted.

Therefore, Ofcom has not upheld Mr Hannan's complaint made on behalf of Mr Mannan of unwarranted infringement of privacy in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 22 August and 4 September 2015 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
Furious and Funny: Caught on Camera	Channel 5	29/06/2015	Violence and dangerous behaviour
Capital Breakfast with Adam, Danny & JoJo	Capital FM (Yorkshire)	12/06/2015	Scheduling

For more information about how Ofcom conducts investigations about content standards, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 22 August and 4 September 2015 because they did not raise issues warranting investigation.

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

For more information about how Ofcom assesses conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Chicago PD (trailer)	5USA	19/08/2015	Generally accepted standards	1
NCIS	5USA	19/08/2015	Violence and dangerous behaviour	1
Rock and Roll Football	Absolute Radio	22/08/2015	Generally accepted standards	1
BBC News	BBC 1	22/08/2015	Generally accepted standards	1
BBC News	BBC 1	23/08/2015	Generally accepted standards	1
BBC News at One	BBC 1	14/08/2015	Race discrimination/offence	1
BBC News at Six	BBC 1	02/09/2015	Outside of remit / other	1
BBC News at Ten	BBC 1	26/08/2015	Violence and dangerous behaviour	2
Big Blue Live	BBC 1	23/08/2015	Outside of remit / other	1
Doctors	BBC 1	26/08/2015	Materially misleading	1
Doctors	BBC 1	26/08/2015	Scheduling	1
EastEnders	BBC 1	22/08/2015	Disability discrimination/offence	1
EastEnders	BBC 1	27/08/2015	Materially misleading	1
EastEnders	BBC 1	28/08/2015	Materially misleading	1
EastEnders	BBC 1	31/08/2015	Generally accepted standards	1
Lady Chatterley's Lover (trailer)	BBC 1	26/08/2015	Scheduling	1
Songs of Praise	BBC 1	23/08/2015	Religious/Beliefs discrimination/offence	1
The Great British Bake Off	BBC 1	19/08/2015	Generally accepted standards	1
The National Lottery	BBC 1	08/08/2015	Materially misleading	1
An Evening with Harry Enfield and Paul Whitehouse	BBC 2	31/08/2015	Generally accepted standards	2
An Evening with Harry Enfield and Paul Whitehouse	BBC 2	31/08/2015	Race discrimination/offence	4
Athletics	BBC 2	21/08/2015	Race discrimination/offence	1
Continuity Announcement	BBC 2	25/08/2015	Generally accepted standards	1
Dragons' Den	BBC 2	30/08/2015	Offensive language	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
EuroHockey Championship	BBC 2	30/08/2015	Outside of remit / other	2
Newsnight	BBC 2	19/08/2015	Crime	1
Special Forces – Ultimate Hell Week	BBC 2	30/08/2015	Generally accepted standards	2
The Hairy Bikers' Bake-ation	BBC 2	19/08/2015	Gender discrimination/offence	2
Don't Tell the Bride	BBC 3	13/08/2015	Offensive language	1
Don't Tell the Bride	BBC 3	13/08/2015	Violence and dangerous behaviour	1
Prostitution: What's the Harm?	BBC 3	18/08/2015	Religious/Beliefs discrimination/offence	1
Bobby Friction	BBC Asian Network	12/08/2015	Religious/Beliefs discrimination/offence	1
BBC News	BBC News Channel	20/08/2015	Outside of remit / other	1
Nick Grimshaw	BBC Radio 1	03/09/2015	Outside of remit / other	1
The Radio 1 Breakfast Show	BBC Radio 1	25/08/2015	Gender discrimination/offence	1
I'm Sorry I Haven't a Clue	BBC Radio 4	03/08/2015	Race discrimination/offence	1
Advertisement	Boomerang	31/08/2015	Advertising content	1
Champions League Football	BT Sport Europe	25/08/2015	Due impartiality/bias	1
Champions League Football	BT Sport Europe	25/08/2015	Generally accepted standards	1
Adventure Time	Cartoon Network	26/08/2015	Scheduling	1
Brainiac: Science Abuse	Challenge	26/07/2015	Gender discrimination/offence	1
Celebrity Squares	Challenge	23/08/2015	Generally accepted standards	1
24 Hours in Police Custody	Channel 4	24/08/2015	Materially misleading	1
8 Out of 10 Cats Does Countdown	Channel 4	21/08/2015	Offensive language	1
Channel 4 News	Channel 4	17/08/2015	Scheduling	3
Channel 4 News	Channel 4	19/08/2015	Due accuracy	1
Channel 4 News	Channel 4	21/08/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	25/08/2015	Due impartiality/bias	3
Continuity Announcement	Channel 4	23/08/2015	Generally accepted standards	2
Hollyoaks	Channel 4	21/08/2015	Race discrimination/offence	1
Hollyoaks	Channel 4	31/08/2015	Sexual material	1
Jamie's Sugar Rush (trailer)	Channel 4	30/08/2015	Materially misleading	1
Jamie's Sugar Rush (trailer)	Channel 4	n/a	Materially misleading	1
Muslim Drag Queens	Channel 4	24/08/2015	Religious/Beliefs discrimination/offence	2
Muslim Drag Queens	Channel 4	28/08/2015	Generally accepted standards	1
Revenge Porn	Channel 4	17/08/2015	Gender discrimination/offence	1
Sex in Class	Channel 4	06/08/2015	Under 18s in programmes	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Catch	Channel 4	31/08/2015	Offensive language	1
The Last Leg	Channel 4	21/08/2015	Advertising/editorial distinction	1
The Last Leg	Channel 4	28/08/2015	Generally accepted standards	1
The Last Leg	Channel 4	28/08/2015	Sexual orientation discrimination/offence	1
The Three Day Nanny	Channel 4	18/08/2015	Under 18s in programmes	8
Benefits-related programming	Channel 4 / Channel 5	25/08/2015	Materially misleading	1
12 Years Old and on Benefits	Channel 5	25/08/2015	Generally accepted standards	1
Advertisement	Channel 5	30/08/2015	Advertising content	1
Benefits and Bypasses: Billion Pound Patients	Channel 5	25/08/2015	Materially misleading	1
Benefits-related programming	Channel 5	n/a	Generally accepted standards	2
Celebrity Big Brother	Channel 5	27/08/2015	Gender discrimination/offence	2
Celebrity Big Brother	Channel 5	28/08/2015	Outside of remit / other	2
Celebrity Big Brother	Channel 5	29/08/2015	Gender discrimination/offence	4
Celebrity Big Brother	Channel 5	29/08/2015	Generally accepted standards	3
Celebrity Big Brother	Channel 5	29/08/2015	Race discrimination/offence	2
Celebrity Big Brother	Channel 5	30/08/2015	Generally accepted standards	3
Celebrity Big Brother	Channel 5	31/08/2015	Generally accepted standards	5
Celebrity Big Brother	Channel 5	01/09/2015	Generally accepted standards	53
Inside Scientology... And Escaping the Witnesses	Channel 5	24/08/2015	Religious/Beliefs discrimination/offence	1
My Big Fat Benefits Wedding Live	Channel 5	25/08/2015	Generally accepted standards	2
Super Casino	Channel 5	24/08/2015	Generally accepted standards	1
Test Cricket: the Ashes	Channel 5	22/08/2015	Generally accepted standards	1
Grizzly Tales for Gruesome Kids	CITV	10/08/2015	Offensive language	2
News	Classic FM	24/08/2015	Due accuracy	1
Programme trailer	Dave	15/08/2015	Scheduling	1
Top Gear: Burma Special	Dave	30/08/2015	Outside of remit / other	1
Reality TV programming	Dave and Food Network	n/a	Materially misleading	1
Joni Table Talk	Daystar	12/08/2015	Generally accepted standards	1
Programming	Daystar	31/08/2015	Teleshopping	1
Advertisement	E!	01/09/2015	Advertising content	1
Made in Chelsea LA	E4	24/08/2015	Religious/Beliefs discrimination/offence	1
Speedway GP	Eurosport	29/08/2015	Outside of remit / other	1
Horror Season (trailer)	Film4	19/08/2015	Scheduling	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Harry Enfield and Chums	Gold	11/08/2015	Scheduling	1
Channel ident	ITV	24/08/2015	Harm	1
Coronation Street	ITV	19/08/2015	Violence and dangerous behaviour	9
Coronation Street	ITV	20/08/2015	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	24/08/2015	Outside of remit / other	1
Coronation Street	ITV	24/08/2015	Scheduling	4
Coronation Street	ITV	27/08/2015	Outside of remit / other	1
Coronation Street	ITV	28/08/2015	Violence and dangerous behaviour	2
Coronation Street / Emmerdale	ITV	n/a	Violence and dangerous behaviour	1
Emmerdale	ITV	28/08/2015	Drugs, smoking, solvents or alcohol	3
Emmerdale	ITV	28/08/2015	Scheduling	1
Emmerdale	ITV	02/09/2015	Materially misleading	1
Good Morning Britain	ITV	24/08/2015	Generally accepted standards	2
Good Morning Britain	ITV	24/08/2015	Scheduling	1
Good Morning Britain	ITV	26/08/2015	Generally accepted standards	1
ITV News and Weather	ITV	23/08/2015	Scheduling	1
ITV News and Weather	ITV	26/08/2015	Generally accepted standards	1
ITV News and Weather	ITV	26/08/2015	Violence and dangerous behaviour	1
ITV News at Ten and Weather	ITV	26/08/2015	Outside of remit / other	1
ITV News at Ten and Weather	ITV	26/08/2015	Violence and dangerous behaviour	1
Keep it in the Family	ITV	29/08/2015	Scheduling	11
Loose Women	ITV	01/09/2015	Generally accepted standards	73
Lorraine	ITV	10/08/2015	Generally accepted standards	1
Lorraine	ITV	18/08/2015	Generally accepted standards	1
Lorraine	ITV	24/08/2015	Disability discrimination/offence	1
Stephen Fry in Central America	ITV	27/08/2015	Animal welfare	1
The Chase	ITV	29/08/2015	Fairness	1
The Jeremy Kyle Show	ITV	24/08/2015	Generally accepted standards	1
The Jeremy Kyle Show USA	ITV	25/08/2015	Generally accepted standards	1
The Trials of Jimmy Rose	ITV	30/08/2015	Offensive language	1
The X Factor	ITV	29/08/2015	Advertising minutage	1
The X Factor	ITV	29/08/2015	Materially misleading	1
The X Factor	ITV	29/08/2015	Outside of remit / other	4

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The X Factor	ITV	30/08/2015	Materially misleading	1
The X Factor	ITV	30/08/2015	Offensive language	2
The X Factor	ITV	30/08/2015	Race discrimination/offence	1
The X Factor	ITV	03/09/2015	Violence and dangerous behaviour	1
This Morning	ITV	01/09/2015	Competitions	1
This Morning	ITV	n/a	Competitions	1
Through the Keyhole	ITV	29/08/2015	Advertising/editorial distinction	1
Through the Keyhole	ITV	29/08/2015	Generally accepted standards	1
Through the Keyhole	ITV	29/08/2015	Offensive language	6
Through the Keyhole (trailer)	ITV	26/08/2015	Scheduling	1
Britain As Seen on ITV (trailer)	ITV Border (Scottish)	24/08/2015	Materially misleading	1
Royal London's sponsorship of London Weekday Weather	ITV London	25/08/2015	Generally accepted standards	1
ITV News Meridian	ITV Meridian	19/08/2015	Generally accepted standards	1
Safeword	ITV2	13/08/2015	Drugs, smoking, solvents or alcohol	1
The Jeremy Kyle Show	ITV2	14/08/2015	Generally accepted standards	1
The Jeremy Kyle Show	ITV2	19/08/2015	Sexual orientation discrimination/offence	1
Continuity Announcement	ITV3	23/08/2015	Generally accepted standards	1
On the Buses	ITV3	13/08/2015	Nudity	1
James O'Brien	LBC 97.3 FM	30/07/2015	Race discrimination/offence	1
James O'Brien	LBC 97.3 FM	24/08/2015	Due impartiality/bias	1
John Stapleton	LBC 97.3 FM	24/08/2015	Harm	1
Continuity Announcement	Movie Mix	23/08/2015	Generally accepted standards	1
News coverage of migration in Europe	n/a	n/a	Due accuracy	1
How Do They Do That?	Quest	21/08/2015	Materially misleading	1
News bulletin	RWS FM	27/08/2015	Outside of remit / other	1
Sky News with Colin Brazier	Sky News	27/08/2015	Due impartiality/bias	1
Sky News with Colin Brazier	Sky News	31/08/2015	Due impartiality/bias	1
Premier League Football	Sky Sports 1	10/08/2015	Race discrimination/offence	1
Jesse Duplantis Ministries	TBN UK	16/08/2015	Generally accepted standards	1
Jesse Duplantis Ministries	TBN UK	16/08/2015	Programme-related material	1
Jesse Duplantis Ministries	TBN UK	23/08/2015	Advertising/editorial distinction	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
If Katie Hopkins Ruled The World	TLC	25/08/2015	Generally accepted standards	1
Say Yes to the Dress	TLC	12/08/2015	Hypnotic and other techniques	1
The Jeremy Kyle Show	Various	n/a	Generally accepted standards	1
News	XFM London	26/08/2015	Due accuracy	1
The XFM Breakfast Show with Jon Holmes	XFM London	27/08/2015	Generally accepted standards	1

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

For more information about how Ofcom conducts investigations about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.

Licensee	Licensed service	Categories
Downtown Radio Limited	Cool FM/Downtown Radio	Other
Northern Media Group Limited	Q102.9	Other
Preston Community Radio 23	City Beat Preston	Key Commitments
Radio Scilly Limited	Radio Scilly	Key Commitments
Swansea Bay Radio Limited	Nation Hits!	Format

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 and radio adverts, or accuracy in BBC programmes.

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

Complaints about television or radio programmes

For more information about how Ofcom assesses conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
BBC News	BBC 1	22/08/2015	Due accuracy	1
BBC News	BBC 1	03/09/2015	Due accuracy	1
BBC News at Six	BBC 1	27/08/2015	Due impartiality/bias	1
BBC News at Ten	BBC 1	26/08/2015	Generally accepted standards	1
Breakfast	BBC 1	22/08/2015	Undue prominence	1
Breakfast	BBC 1	28/08/2015	Due impartiality/bias	1
Regional News and Weather	BBC 1	23/08/2015	Undue prominence	1
The One Show	BBC 1	28/08/2015	Undue prominence	1
Don't Take My Baby	BBC 3	20/07/2015	Materially misleading	1
News	BBC Radio 4	31/08/2015	Due impartiality/bias	1
Programming	Create and Craft	n/a	Advertising content	1
Advertisement	ITV	20/08/2015	Advertising content	1
Advertisement	ITV	24/08/2015	Advertising content	2
Advertisement	ITV	25/08/2015	Advertising content	1
Advertisement	ITV	28/08/2015	Advertising content	1
Advertisement	ITV	29/08/2015	Advertising content	1
Advertisement	ITV4	30/08/2015	Advertising content	1
Advertisement	More4	30/08/2015	Advertising content	1
Advertisement	Sky Living	31/08/2015	Advertising content	1
Advertisement	Various	31/08/2015	Advertising content	1

Investigations List

If Ofcom considers that a broadcaster may have breached its codes, a condition of its licence 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 has done anything wrong. Not all investigations result in breaches of the licence or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 22 August and 4 September 2015.

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

Programme	Broadcaster	Transmission date
Panorama	BBC 1	3 August 2015
Alex Dyke	BBC Radio Solent	12 August 2015
Judge Judy	CBS Reality	4 August 2015
Channel 4 News	Channel 4	24 August 2015
Programming	Channel i	18 June 2015
Kiss Breakfast	Kiss FM	13 August 2015
Time of our Lives	Sky Sports 1	18 August 2015
Family Guy	TV6 (Sweden)	8 and 16 August 2015

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

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

Programme	Broadcaster	Transmission date
News	Metro Radio	10 June 2015

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.

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

Licensee	Licensed Service
Voice of Africa Radio	Voice of Africa Radio

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.