

Complaint by Mr Hamad Ali Mohammed Ali Al-Hammadi, made on his behalf by Mr Rodney Dixon QC, about *Confessions of Qatari intelligence agent to damage the reputation of the UAE*

Type of case Fairness and Privacy

Outcome Upheld

Service Abu Dhabi Channel

Date & time 22 June 2017¹

Category Fairness and Privacy

Summary Ofcom have upheld this complaint of unjust or unfair treatment in the programme as broadcast and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme, and in the programme as broadcast.

Ofcom also considers that the breaches of Rules 7.1 and 8.1 of the Code are serious. We are therefore putting the Licensee on notice that we intend to consider the breaches for the imposition of a statutory sanction.

Case summary

The programme reported on allegations that the Qatari Security Service was creating fake social media accounts and websites and using them to “slander” the United Arab Emirates (“UAE”). The programme alleged that Mr Hamad Ali Mohammed Ali Al-Hammadi (the complainant), a Qatari intelligence officer, was involved.

¹ The complaint was submitted to Ofcom on 16 March 2018.

Mr Al-Hammadi, who was arrested by the authorities in the UAE in 2014, subsequent to the programme being broadcast brought a complaint to Ofcom, saying that he was interviewed under duress while he was in custody and the footage was broadcast by Abu Dhabi Channel without his knowledge or consent.

Ofcom found that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast and that his privacy was unwarrantably infringed both in the obtaining of the footage of him and in its broadcast.

Programme summary

Abu Dhabi Channel is a global news and current affairs television channel produced in Abu Dhabi and funded by Abu Dhabi Media, the official media organisation of the Government of Abu Dhabi. Abu Dhabi is one of the seven emirates that make up the United Arab Emirates (“UAE”). In the UK, the channel is broadcast on the satellite platform. The Licence for the service is held by Abu Dhabi Media Company PJSC (“ADMC”). As the programme was broadcast in Arabic, an English translation was obtained by Ofcom and provided to the complainant and the broadcaster for comment. The broadcaster submitted comments on the translation to Ofcom, however, the complainant made no comments on the translation. The broadcaster’s comments were assessed by Ofcom and, where appropriate, amendments were made to the translation. A revised and final version of the translation was then provided to the parties who were informed that Ofcom would use this translation for the purposes of this investigation.

On 22 June 2017, Abu Dhabi Channel broadcast the programme *Confessions of Qatari intelligence agent to damage the reputation of the UAE*.

The programme was introduced by the presenter:

“It is normal for a country to have its own security service, working night and day to protect citizens and the state against enemies and traitors. However, when such an organisation is turned into a tool against brotherly countries and relatives, to defame and spread rumours, disunity and lies. This has never been seen in any other country before. The story begins many years ago, when the Emirati Security Services noticed social media accounts insulting the United Arab Emirates and its symbols, accounts that clearly belonged to Emirati telephone numbers, and whose users confirmed that they were Emiratis. This was not only out of the ordinary, it also beggared belief. It was impossible to believe that an Emirati citizen could use insulting images and obscene expressions against their country and its leadership. Therefore, the security services started to track these accounts, especially an account called ‘Bouaskour’. After a period of monitoring, security services discovered that the abusive messages were coming from Qatar. Arrivals from Qatar were monitored, until the security services were finally able to get their hands on a person that they later discovered was a member of the Qatari Security Services, in other words, its intelligence agency”.

A Qatari identity card was shown on screen. It belonged to Mr Al-Hammadi (the complainant). The identity card contained: Mr Al-Hammadi's full name; his identity number; his date of birth; his nationality; a photograph of him; and, the expiry date of the card.

Footage of Mr Al-Hammadi speaking was shown. He said:

"My name is Hamad Ali Muhammad Ali Al- Hammadi. I am 33 years old. Qatari. I work for the [Qatari] State Security Service. I hold the rank of Second Lieutenant, in the secretariat of His Excellency, Director of the Agency. I joined the secretariat in December 2013. I accompanied His Excellency the Director during his work trips. I worked as his assistant outside working hours, in addition to personal matters that he assigned me or the branch. Or, I ran errands for his household or private matters. Before I transferred to His Excellency the Director, I worked with Lieutenant Colonel Jassim Muhammad Abdullah Rastam, the Deputy Director of the Services for Operations".

The presenter said:

"For a number of years, the Qatari Security Services have been carrying out what they refer to as 'Digital Department', in other words, monitoring everything that is posted on social media networks, and creating fake accounts on Twitter and Instagram under fake names. The purpose of these accounts was to target the United Arab Emirates, and to create a false impression suggesting that there is discontent among nationals".

Further footage of Mr Al-Hammadi speaking was shown in between comments from the presenter. Mr Al-Hammadi said:

"On the 15th of September, Lieutenant-Colonel Jassim called me and told me to go to his office at 10:00. I arrived at around 12:00, or 12:30 and he gave me 25,000 Qatari riyals from the agency's allowance account".

The presenter said:

"The mission can be summarised as follows: going to the United Arab Emirates by land to buy five SIM cards and placing 5,000 dirhams worth of credit in each so they could be used internationally".

Mr Al-Hammadi said:

"I asked him about the reason, and he told me to set them up for roaming, international use, YouTube, the price per minute was going to be 55. I was surprised because of this, I had no idea why these large sums were involved to charge up the SIM cards. I tried to ask about the

purpose a second time, and he told me to do as I was told without further discussion”.

The presenter said:

“Lieutenant Al-Hammadi left Doha in his car towards the Bu Samra land border in Qatar. From there he went to the Saudi border crossing, Salwa crossing point, on the border between the two countries”.

Mr Al-Hammadi said:

“The day I left Doha, I entered Salwa crossing point/Saudi borders at around 17:00 or 18:00, Salwa crossing point at the border. I bought five Saudi SIM cards, which indeed had internet and all the other things”.

The presenter said:

“After entering Saudi Arabia, Hamad went straight to the Al-Ghuwaifat Emirati border crossing and entered in the evening of the same day”.

Mr Al-Hammadi said:

“I entered Ghuwaifat border, crossing in a black Toyota LG with licence plate 35523, which belongs to my brother, Muhammad Ali Al-Hammadi, and I obtained insurance for 100 dirhams”.

The presenter said:

“After completing the drama of entering and insuring the car, Lieutenant Al-Hammadi went to a grocery store and easily purchased five UAE SIM cards without the seller asking him for photo identification. He bought four mobile phones and also used his personal phone to install the SIM cards. He spent a number of hours loading each of them with 5,000 dirhams using top-up cards”.

Mr Al-Hammadi said:

“Lieutenant Colonel Jassim asked me to charge these Emirati numbers in an Emirati network so that they could be topped up. The Indian workers gave me four telephones, put in the cards, and loaded them. They [the cards] weren’t available, so they had to charge it by using the electronic credit and the manual cards. The five numbers were loaded with 25,000 Emirati dirhams. After that, I removed the SIM cards from the telephones, put them together and left”.

The presenter said:

“On the next day, the 16th of September 2013, Lieutenant Al-Hammadi took his car to the Emirati Al-Ghuwaifat border crossing, and from there to the Salwa and Abu Samra crossings before finally reaching the [Qatari] capital, Doha”.

Mr Al-Hammadi said:

“While I was on the way, I called Jassim and told him that I had gotten him the things he had told me to purchase, I didn’t know anything else about it, like the reasons why. He was at work. When I went there, he was leaving. I arranged to meet him and handed him the items. I told him I had spent 1,200 on the Saudi SIM cards, gas, and insurance”.

The presenter said:

“Lieutenant Hamad went the headquarters of the security services, where he handed over the five SIM cards”.

Mr Al-Hammadi said:

“Captain Hamad Khamis Al-Kbeisi, Director of Digital Administration, was there. Jassim handed over the lines to Hamad Khamis Al-Kbeisi, the former Head of Digital Administration at the security services”.

The presenter said:

“Hamad Khamis Al-Kbeisi entrusted them to Lieutenant Rashid Abdullah Al-Mirri and Lieutenant Amer Muhammad so that they could use them to create fake accounts on the social media networks, Twitter and Instagram. One of the most famous fake websites overseen by the Qatari Security Services was ‘Bouaskour’, which spread rumours and lies about the Emirates. It used words and expressions that surprised everyone by how obscene and low they were”.

Mr Al-Hammadi said:

“The Qatari Digital Administration created ‘Bouaskour’, ‘Ganas Al-Shamal’ and the other accounts that insult the United Arab Emirates, and used them to slander the United Arab Emirates, the symbols of the United Arab Emirates, like the late Sheikh Zayed, may he rest in peace, Sheikh Khalifa bin Zayed, the Head of State, Sheikh Muhammad bin Zayed, Sheikh Abdullah bin Zayed, and Sheikh Hazz’a, in addition to Lieutenant General Dhahi Khalfan. These attacks were carried out in Instagram through slanderous/offensive photos/images. I think that Saudi SIM cards were used to offend Saudi Arabia”.

The presenter said:

“Upon his arrest, Lieutenant Hamad Al-Hammadi was charged in 2015 by the State Security Court and sentenced to 10 years imprisonment. The Court also issued lifelong imprisonment sentences in absentia for four other members of the Qatari Security Services, Lieutenant Colonel Jassim Muhammad Abdullah, Assistant Director for Operations, Captain Hamad Khamis Al-Kbeisi, Director for Digital Department at the Security Services, Security Services First Lieutenant Rashid Abdullah Al-Mirri, and Security Services First Lieutenant Amer Muhammad”.

While the presenter was speaking the text below was highlighted in a document shown on screen:

“The [UAE] State Security Division of the High Federal Court has issued a verdict in the ‘Bouaskour’ case in which five Gulf citizens stand accused. The Court sentenced suspect Hamad Ali to 10 years imprisonment and a fine of one million dirhams, as well as expulsion after the sentence is carried out, having deemed him an ‘accessory to the crime, but not the person who committed it’.

The Court also sentenced each of the four others accused in absentia, who have managed to escape justice, to life imprisonment and fines of one million dirhams, on the basis of the evidence against them, as well as expulsion from the Emirate after the sentence is carried out. The Court also ordered the destruction of all the items seized from the accused.

(H.KH.) An officer with the rank of Captain, he is the Head of Digital Management at the Security Services. He ordered the fourth accused (R.A.), a First Lieutenant with the Security Services, and the fifth accused, (A.M.), a Lieutenant with the Security Services [the text was cut off]”.

The presenter continued:

“However, in order to calm things down, and in order to maintain good and neighbourly relations, the Emirati President subsequently pardoned Lieutenant Mohammad Al-Hammadi”.

Further text highlighted in a document was shown on screen:

“The most prominent message sent by the President[ial] Pardon is the desire to unify and strengthen the Gulf against major threats. The relations between members of the Gulf Cooperation Council need to be strengthened and consolidated, discord needs to be resolved and the atmosphere of distrust, whatever its cause, needs to be addressed”.

The presenter said:

“This matter, the slandering and offending of the symbols of the United Arab Emirates by the Qatari Security Services, is only one of many attempts in which the State of Qatar tried to undermine the United Arab Emirates, the Kingdom of Saudi Arabia, the Kingdom of Bahrain, and other Arab countries. It is merely the tip of the iceberg which hides many other conspiracies beneath it”.

The programme ended with the caption *“Qatar, the hidden agenda”*.

Summary of the complaint and broadcaster’s response

Complaint

A complaint about the programme was submitted on Mr Al-Hammadi’s behalf by Mr Rodney Dixon QC on 16 March 2018. By way of background, Mr Dixon said that Mr Al-Hammadi, a Qatari intelligence officer, was arrested by UAE authorities on 27 June 2014 and was detained incommunicado in a “secret prison” where he was interrogated and tortured. Mr Dixon said that Mr Al-Hammadi was forced under threat of torture to provide a confession that was filmed by the UAE authorities. He was told what to say and given a written text to follow. He was told that he would be released if he recorded the confession and admitted to his involvement in the crimes the UAE authorities alleged against him. On 18 May 2015, Mr Al-Hammadi was convicted and sentenced to ten years in prison by the State Security Chambers of the Federal Supreme Court of Abu Dhabi, based on the false confession, for insulting UAE officials and symbols by publishing information, news and photographs on Twitter in order to ridicule and damage the prestige of the UAE. On 22 May 2015, Mr Al-Hammadi was released on account of an agreement made between the Qatari and UAE Governments.

Unjust or unfair treatment

- a) Mr Dixon complained that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast because:
 - i) The programme included footage of him confessing to crimes against the UAE. However, the programme did not explain that the confession had been obtained under the threat of torture. Mr Dixon said that in the programme, Mr Al-Hammadi “appears to be genuinely admitting to having committed the crimes of which he was found guilty (when this was not the case)”.
 - ii) Mr Al-Hammadi was not given an opportunity to contribute or comment on the programme before it was broadcast. Mr Dixon said that the programme makers, took no action at any time to confirm with Mr Al-Hammadi the veracity or accuracy of the footage broadcast.

Unwarranted infringement of privacy

- b) Mr Dixon complained that Mr Al-Hammadi’s privacy was unwarrantably infringed in connection with the obtaining of material included in the programme.

Mr Dixon said that the footage of Mr Al-Hammadi which was broadcast was filmed in a private room within the facility where he was being imprisoned. It showed him making a confession,

which was “obtained through duress, torture and false promises while he was being arbitrarily detained”. The footage broadcast concerned matters of a highly sensitive and confidential nature, in particular, about Mr Al-Hammadi’s alleged involvement in the commission of crimes for which he could be tried and face conviction. Mr Dixon said that Mr Al-Hammadi did not make the confession voluntarily, nor did he consent to being filmed. Mr Dixon said that the broadcaster was aware, or should have been aware, of the circumstances in which Mr Al-Hammadi was filmed before the material was broadcast.

- c) Mr Dixon complained that Mr Al-Hammadi’s privacy was unwarrantably infringed in the programme as broadcast because the footage of his confession was broadcast without his knowledge or consent.

Mr Dixon said that the footage showed Mr Al-Hammadi in a private room discussing matters of a highly sensitive and confidential nature, especially, given that he was being questioned about crimes for which he could be tried and face conviction. Mr Dixon said that no public interest could justify broadcasting footage obtained under duress and torture while in a “secret” prison without first taking measures to validate and substantiate the circumstances of the interview and the information obtained, and to ensure that Mr Al-Hammadi was content for it to be publicised.

Broadcaster’s response

Unjust or unfair treatment

ADMC said that it “had no reason to know of Mr Al-Hammadi’s complaints surrounding the footage broadcast in the Programme”. It said that following Mr Al-Hammadi’s release from prison in the UAE for the crimes for which he had been convicted, Mr Al-Hammadi did not appear to have made any public statements or given any interviews which suggested that he gave the interview in question under pressure. It said that Mr Al-Hammadi did not appear to confirm any suggestions of this in the Amnesty International press releases, that he referred to in his complaint to Ofcom². ADMC said that despite the assertions that Mr Al-Hammadi had consistently maintained that his written and recorded confessions obtained under torture were false, Mr Al-Hammadi’s first public complaint with respect to the footage in question appeared to have been made in or around September 2017, two months after the programme was broadcast. ADMC said that, as such, at the time of broadcast, there was no reason for ADMC to believe that the footage of the interview was “anything other than freely obtained and an

² Mr Dixon said that Mr Al-Hammadi was released from prison on 22 May 2015 as the result of an agreement between the Governments of Qatar and the UAE. He said that this was widely publicised at the time, including a public statement by Amnesty International (dated 27 May 2015). A copy of this press release was provided to Ofcom: [Amnesty International Press Release 27 May 2015 \(Index number: MDE 25/1735/2015\)](#).

Mr Dixon also provided Ofcom with a copy of a second Amnesty International Press Release (dated 10 October 2014), which gave details of the UAE subjecting Mr Al-Hammadi to “enforced disappearance” and explained that people detained in this way were: being arrested in the UAE without warrants; taken to unofficial secret detention facilities; kept for weeks or months without charge or access to legal representation; tortured or otherwise ill-treated; and, their whereabouts kept from their families. [Amnesty International Press Release 10 October 2014 \(Index number: 25/022/2014\)](#).

accurate reflection of the circumstances surrounding Mr Al-Hammadi (a Qatari intelligence officer's) arrest and conviction for crimes against the UAE".

ADMC said that it was "...therefore not aware of any 'material facts'" which could have impacted its decision to broadcast the footage", and that therefore it had not breached the Ofcom Broadcasting Code ("the Code"). It said that Mr Al-Hammadi was portrayed as someone admitting to criminal conduct against the UAE, because it said that this is what the footage showed and that this is what Mr Al-Hammadi was convicted of. ADMC said that it was not aware of any factors which were likely to have made this portrayal unfair or of any 'material facts' surrounding the footage which may have required elaboration.

ADMC said that Amnesty International press releases were insufficient in themselves to support a contention of widespread media coverage of the circumstances surrounding the obtaining of the footage of Mr Al-Hammadi confessing to having committed crimes. It said that the press releases provided, seemingly only published in English, were not widely reported, would likely not to have been widely read in the UAE, and were not read by ADMC. ADMC said that the Code states that the broadcaster must take "reasonable care" to satisfy itself that the material it presents is not unfair; the ADMC said that it was not incumbent on the broadcaster to conduct an exhaustive search for press releases.

ADMC said that the footage showed Mr Al-Hammadi in a "relaxed environment, with no suggestion that he was in a prison, as alleged". It said that it was unaware of any credible suggestion that Mr Al-Hammadi was being filmed under duress as alleged.

ADMC further said that, even if it had considered it necessary to seek comment from Mr Al-Hammadi prior to the broadcast of the programme, it could not have done so because given the nature of Mr Al-Hammadi's profession, his whereabouts and address at the time of the broadcast were unknown to it. It said that, in the circumstances, the immediate public interest in broadcasting the programme, at a time when it was closely linked to contemporaneous political events in the Middle East, took precedence.

Unwarranted infringement of privacy

ADMC said that, as above, it was not aware of the allegations made by Mr Al-Hammadi surrounding the interview because these were not widely known at the time the programme was broadcast. It also said that there was no reason to suspect that that the footage of Mr Al-Hammadi had been obtained involuntarily. ADMC said that: "Mr Al-Hammadi was not visibly uncomfortable or distressed, nor does Mr Al-Hammadi appear to have been in a 'secret prison' or similar". It further said that: "Nothing indicated that Mr Al-Hammadi was in a 'private room' or that the circumstances were otherwise private and not intended for broadcast".

ADMC said that, in respect of obtaining consent to the broadcast of the footage, as set out above, it was unaware of Mr Al-Hammadi's contact details at the time of the broadcast. ADMC also said that it had no reason to believe that the footage of Mr Al-Hammadi had been filmed in a prison. ADMC said that Mr Al-Hammadi had no right to privacy with regard to the material, and if there had been, any

infringement would have been warranted because it “did not know and could not have been aware that the material might be ‘private’”.

ADMC said that it also disagreed that any breach of privacy would outweigh the public interest in broadcasting the interview. It said that, at the time the programme was broadcast, the UAE and Qatar (and other Middle Eastern nations) were “embroiled in the height of the Qatar diplomatic crisis”. It said that the crisis had been triggered by Qatar’s alleged support and financing of terrorist groups including Hamas, and Qatar’s alleged violation of its obligations as a member of the Gulf Cooperation Council³. It said that public interest in broadcasting information concerning matters relating to Qatar’s conduct in the region was therefore very high. As such, it said that the public interest in broadcasting the programme contemporaneously with the crisis outweighed any claims that Mr Al-Hammadi may seek to invoke in relation to his own privacy.

ADMC also said that its right to broadcast the footage of Mr Al-Hammadi at a time when public interest in the contents was manifestly high outweighed any competing rights Mr Al-Hammadi might claim to have in the circumstances.

Additional material

Following receipt of the broadcaster’s response to the complaint, Ofcom requested that ADMC provide it with further information about the circumstances in which it obtained the footage of Mr Al-Hammadi. ADMC provided the further following information:

- ADMC was not involved in the filming of the footage of Mr Al-Hammadi. The footage was filmed and provided to ADMC by a “confidential third party source”. It was this source that alerted ADMC to the existence of the footage. ADMC was not aware of the intention to conduct the filmed interview of Mr Al-Hammadi in advance.
- No discussions took place between ADMC and the source who provided the footage as to the circumstances in which the material had been filmed, including, for example, details as to where the footage was filmed.
- ADMC could not provide details about when it first became aware of the filmed interview with Mr Al-Hammadi or the existence of the footage because of “...the long delay between broadcast and the complaint...being made [to Ofcom]”, however, it said that this “...is likely to have been shortly before broadcasting the footage”.
- ADMC could also not provide the date on which it received a copy of the footage “...as a result of the long delay between broadcast and the complaint...being made [to Ofcom]”, however, it said that “it would likely have been shortly before broadcast in June 2017”.
- ADMC could not provide details of when and where the interview had taken place because of “the length of time between the date the programme was aired and the complaint... [made to Ofcom]”, however it said that “...the filming appeared to have taken place in a relaxed environment”.
- ADMC understood the footage to be “...a factual account given by the individual...of the circumstances surrounding the conviction of the...individual...”.

³ The Gulf Cooperation Council (“GCC”), a political and economic alliance of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.

- ADMC took no specific steps to ascertain the circumstances in which the footage of Mr Al-Hammadi had been filmed or to verify the accuracy of the statements that Mr Al-Hammadi made in the footage, given that it said that “ADMC was not aware of any facts which gave it reason to question the footage”. In addition, ADMC said that it was public knowledge that Mr Al-Hammadi had been convicted by the UAE courts in respect of the matters which he discussed in the footage, and so it said that ADMC had no reason to question the footage.
- ADMC said that it could not provide any information about when it had first decided to produce the programme complained about or what editorial decisions it had taken before broadcasting the programme containing the footage of Mr Al-Hammadi “...as a result of the long delay between broadcast and the complaint...being made [to Ofcom]”, however, it said that the decision to produce the programme was “...likely to have been [made] shortly before broadcasting the programme...”. ADMC also said that: “ADMC broadcast the unedited footage that shows the individual...in a relaxed environment, with no suggestion that...[he was] in prison, as alleged, that... [he was] subject to any duress or that there were any concerns relating to the time or duration of the interview...”.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Mr Al-Hammadi’s complaint should be upheld. Both parties were given opportunities to make representations on the Preliminary View, and while the complainant chose not to do so, the broadcaster did make representations which, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

Broadcaster’s representations

ADMC said that the complaint was filed 188 working days late, which it said, had unduly prejudiced ADMC in responding to the complaint (and that it continues to do so). This issue of delay in bringing a complaint was considered and rejected in Ofcom’s decision to entertain the complaint. We reconsidered in the light of ADMC’s subsequent representations whether there were any grounds to believe that it had been unduly prejudiced by the time which elapsed between the broadcast and Mr Al-Hammadi’s complaint. We were satisfied that there were no such grounds, and so this point is not addressed further in this Decision.

ADMC said that Ofcom’s reasoning in relation to Rule 7.1 of the Code was based to a significant extent on its assessment of whether ADMC followed Practice 7.3 of the Code. It said that the Preliminary View made a finding that this Practice was not followed by ADMC, and then considered whether the failure to follow the Practice resulted in unfairness. ADMC said that it considered Practice 7.3 only applied where “a person is invited to make a contribution to a programme”. It said that, in the present case, Mr Al-Hammadi did not complain, nor was it ADMC’s position, that he was “invited to make a contribution” to the programme, rather, Mr Al-Hammadi’s complaint was that he “was *not* given an opportunity to contribute [to the programme]”. ADMC also said that Ofcom’s reasoning suggested that it was appropriate to consider the extent to which the broadcaster had taken steps to conform with Practice 7.3 because Mr Al-Hammadi was a “significant contributor” to the programme. It added, however, Ofcom had not given further explanation as to how Mr Al-Hammadi being characterised as a “significant contributor” engaged the wording of Practice 7.3, which it said was explicitly premised on a person being invited to make a contribution to a programme. It said that in those circumstances

Practice 7.3 did not apply. ADMC said that, accordingly, Ofcom's reasoning based on a finding that Practice 7.3 was not followed by the broadcaster was flawed. ADMC said that it followed that Ofcom's Preliminary View on unfairness, relying as it did on the finding that Practice 7.3 was not followed, could not stand.

ADMC said that, when considering whether there was an unwarranted infringement of privacy in connection with the obtaining of the footage, Ofcom reiterated the finding it had already made as part of its reasoning in relation to unjust or unfair treatment that Practice 7.3 was not followed. It said that since, for the reasons set out above, it considered that Practice 7.3 did not apply in the present case, this vitiated the reasoning and conclusion in relation to unwarranted infringement of privacy.

ADMC said that it considered a further error was made in Ofcom's consideration of the balance between the competing rights of privacy and freedom of expression, and in particular in its assessment of ADMC's submissions based on the public interest in the making and broadcast of the programme. ADMC said that Ofcom stated that "it was not warranted to film [Mr Al-Hammadi] in such a sensitive situation for the purpose of a television broadcast", and that this appeared to be regarded as a significant factor by Ofcom in reaching its conclusion that the public interest in making the programme, and including information about Mr Al-Hammadi, did not outweigh any infringement of privacy. ADMC said that the factual premise that Mr Al-Hammadi was filmed "for the purpose of a television broadcast", however, was not made out. It said that neither Ofcom nor ADMC are in a position to ascertain why the footage was filmed and so it cannot be concluded that the filming of Mr Al-Hammadi took place "for the purposes of television broadcast". ADMC said that, nevertheless, the Preliminary View stated that Ofcom's finding that Mr Al-Hammadi's legitimate expectation of privacy was unwarrantably infringed in connection with the obtaining of the broadcast footage was reached "on this basis" (i.e. on the basis that Mr Al-Hammadi was filmed "for the purpose of a television broadcast").

ADMC said that these errors meant that Ofcom's reasoning in relation to the complaint of unwarranted infringement of privacy in connection with the obtaining of the footage was flawed and its conclusion could not stand. ADMC said that it was difficult to understand how it could be held accountable for the obtaining of the material in circumstances where it was not responsible for filming it. ADMC also said that the reasoning in relation to the complaint that there was an unwarranted infringement of privacy in the programme as broadcast expressly incorporated the findings already made in relation to the obtaining of the footage and that, for the same reasons set out above, it followed that Ofcom's conclusion on this part of the complaint was also flawed and could not stand.

ADMC said that it noted the statements made in Ofcom's Preliminary View, about Mr Al-Hammadi's complaint that he did not consent to being filmed, incorrectly conflated Mr Al-Hammadi's complaint that he was filmed without consent with the issue of informed consent. It said that Ofcom concluded that Mr Al-Hammadi's consent to being filmed for the broadcast programme had not been obtained. However, it added that given that Ofcom stated that "it was clear from the footage that Mr Al-Hammadi was aware that he was being filmed", ADMC said that Ofcom must here be referring to "informed consent" as set out in Practice 7.3, which it said, for the same reasons set out above, did not apply and therefore Ofcom's conclusion on this part of the complaint could not stand. ADMC added that the reasoning in relation to the complaint that there was an unwarranted infringement of

privacy in the programme as broadcast expressly incorporated the finding that “there was no evidence that Mr Al-Hammadi’s consent to being filmed had been secured”, and that, as above, Ofcom’s conclusion on this part of the complaint was also flawed and could not stand.

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 programme 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 the decision, Ofcom considered all the relevant material provided by both parties. This included a recording and translated transcript of the programme as broadcast, both parties’ written submissions and the broadcaster’s representations in response to the Preliminary View. After careful consideration of the broadcaster’s representations, we considered that the points raised did not affect the outcome of Ofcom’s Preliminary View to uphold the complaint.

Unjust or unfair treatment

- a) Ofcom considered the complaint that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast.

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 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.

- i) We first considered the complaint that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast because the programme included footage of him confessing to crimes against the UAE. According to the complainant, this confession had been obtained under the threat of torture. Mr Dixon said that Mr Al-Hammadi appeared to be “genuinely admitting to having committed the crimes of which he was found guilty (when this was not the case)”. The programme did not provide any information about the circumstances in which the footage of Mr Al-Hammadi was filmed.

In considering this complaint, we had particular regard to the following Code Practices:

Practice 7.3 states:

“Where a person is invited to make a contribution to a programme...they should normally, at an appropriate stage:

- be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute...;
- be told what kind of contribution they are expected to make...;
- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness;
- ...
- Taking these measures is likely to result in the consent that is given being ‘informed consent’...”.

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...”.

It is important to note that it is not Ofcom’s role to determine whether the statements made in the programme by Mr Al-Hammadi were obtained under the threat of torture, but rather, whether the broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Al-Hammadi.

The programme said that fake social media accounts had been set up to insult the UAE, and explained that:

“The story begins many years ago, when the Emirati Security Services noticed social media accounts insulting the United Arab Emirates and its symbols, accounts that clearly belonged to Emirati telephone numbers, and whose users confirmed that they were Emiratis...It was impossible to believe that an Emirati citizen could use insulting images and obscene expressions against their country and its leadership. Therefore, the security services started to track these accounts, especially an account called ‘Bouaskour’. After a period of monitoring, security services discovered that the abusive messages were coming from Qatar. Arrivals from Qatar were monitored, until the security services were finally able to get their hands on a person that they later discovered was a member of the Qatari Security Services, in other words, its intelligence agency”.

A Qatari identity card belonging to Mr Al-Hammadi was then shown. The identity card contained: Mr Al-Hammadi's full name; his identity number; his date of birth; his nationality; a photograph of him; and, the expiry date of the card.

Footage of Mr Al-Hammadi speaking about himself and his role in the Qatari Security Services was included in the programme. The presenter then said:

"For a number of years, the Qatari Security Services have been carrying out what they refer to as 'Digital Department', in other words, monitoring everything that is posted on social media networks, and creating fake accounts on Twitter and Instagram under fake names. The purpose of these accounts was to target the United Arab Emirates, and to create a false impression suggesting that there is discontent among nationals".

Mr Al-Hammadi was shown speaking about his involvement in this role by detailing how he entered the UAE and purchased UAE smart phones and SIM cards. He then said:

"The Qatari Digital Administration created 'Bouaskour', 'Ganas Al-Shamal' and the other accounts that insult the United Arab Emirates, and used them to slander the United Arab Emirates, the symbols of the United Arab Emirates...These attacks were carried out in Instagram through slanderous/offensive photos/images...".

The programme explained that Mr Al-Hammadi was arrested, charged and sentenced to 10 years imprisonment for his involvement, but that:

"However, in order to calm things down, and in order to maintain good and neighbourly relations, the Emirati President subsequently pardoned Lieutenant Mohammad Al-Hammadi".

In our view, the inclusion of the footage of Mr Al-Hammadi in the programme, in the context in which it was shown, would have been understood by viewers as an admission by Mr Al-Hammadi of his involvement in crimes against the UAE. Given the disclosures made by Mr Al-Hammadi in his capacity as an agent of the Qatari Security Services, we also considered that viewers may have perceived him to have betrayed his nation state, as well as colleagues within the Qatari Security Services.

Given this, we considered that the programme had the clear potential to materially and adversely affect viewers' opinions of him.

Ofcom first considered the application of Practice 7.3 and the extent to which ADMC had taken steps to provide Mr Al-Hammadi with the information set out above for the purpose of securing his informed consent. We took into account the complainant's assertion that:

"He [Mr Al-Hammadi] was taken to a secret prison and detained incommunicado by the State Security Services. Mr Al-Hammadi was

interrogated and tortured while in prison...Thereafter, Mr Al-Hammadi was forced to provide a confession under threat of torture that was video recorded by the UAE authorities. He was told what to say during the interview and given a written text to follow. He was told he would be released if he admitted his involvement in the crimes the UAE authorities alleged against him. He was forced to confess to entering the UAE and buying smartphones and UAE SIM cards, with the phones then apparently being used to publish Tweets deemed to be insulting to the UAE”.

We did not accept the broadcaster’s representations that Practice 7.3 was not applicable. Notwithstanding Mr Al-Hammadi’s allegation that he had given the interview under duress, by including the footage of the interview, Mr Al-Hammadi was presented as a contributor to the programme broadcast by Abu Dhabi Channel. It should therefore have taken steps to ascertain whether he had been given information in line with Practice 7.3 to obtain his informed consent. As a licensed broadcaster, it was responsible for ensuring that his treatment in the material it had obtained for broadcast complied with the Code.

ADMC said it had not been involved in the commissioning or filming of the footage, but that a “confidential third party source” had provided it to ADMC for the purpose of it being broadcast. We took into account the broadcaster’s statement and additional information provided to Ofcom regarding the circumstances surrounding the obtaining of the footage of Mr Al-Hammadi. ADMC told Ofcom that it had no knowledge of the circumstances in which he had been filmed: it said that no discussions had taken place between ADMC and the source that provided the footage as to the circumstances in which the material had been filmed and that “no specific steps were taken to ascertain the circumstances in which the footage had been filmed”.

ADMC has admitted that it did not take any specific steps to ascertain the circumstances in which the footage was filmed, in order to satisfy itself that Mr Al-Hammadi had been informed about the nature and purpose of the programme, or why he had been asked to contribute or that he had been provided with any of the other information listed in Practice 7.3. We therefore considered that it was clear that the broadcaster had not taken any steps to establish that Mr Al-Hammadi’s informed consent to contribute to the programme had been obtained.

Ofcom next considered the application of Practice 7.9 and the extent to which ADMC had exercised reasonable care in satisfying itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Al-Hammadi.

We considered that Mr Al-Hammadi’s complaint that his confession was given under duress, and his contention that he had told the judge this during his trial, were material facts, since they challenged the reliability of his confession and subsequent conviction, which were the focus of the broadcast programme. Since they were not presented in the broadcast

programme, we examined the various representations put forward by ADMC to explain their omission. These were as follows:

- i) it said that it was not aware of the circumstances in which the footage of Mr Al-Hammadi was filmed; and
- ii) it was not aware of the allegations made by Mr Al-Hammadi about his interrogation.

ADMC said it made no enquiries about where the footage of Mr Al-Hammadi was filmed and said it could not provide details about this because of the time that had elapsed since broadcast. It said that the filming appeared to have taken place in a “relaxed environment”.

In assessing whether the broadcaster had exercised reasonable care in satisfying itself that material facts had not been omitted in a way that was unfair to Mr Al-Hammadi, we took account of the broadcaster’s statement that following his release from prison in the UAE, Mr Al-Hammadi did not appear to have made any immediate public statements or given any interviews which suggested that he had given the relevant interview under pressure. ADMC said that: “In fact, despite the assertions that Mr Al-Hammadi has ‘consistently maintained...that his recorded confessions were (allegedly) obtained by torture and are untrue’, his first public complaint in respect of the footage appears to have been made around September 2017, two months after the Programme was aired”. ADMC said that: “As such, at the time of broadcast, there was no reason for ADMC to believe that the videos were anything other than freely obtained and an accurate reflection of the circumstances surrounding Mr Al-Hammadi (a Qatari intelligence officer’s) arrest and conviction for the crimes against the UAE”.

However, we considered that there were particular features of the footage that should have led the broadcaster to make further enquiries about it. At the outset, Mr Al-Hammadi identified himself as a member of the Qatari Security Services and then explained how he had been tasked to purchase SIM cards in the UAE which, according to Mr Al-Hammadi’s filmed confession, were used by the Qatari Digital Administration to, “insult the United Arab Emirates” and “to slander the United Arab Emirates”. In the course of the confession, Mr Al-Hammadi identified by name two other members of the Qatari Security Services.

We considered that the disclosures made by Mr Al-Hammadi in relation to his position as an officer of the Qatari Security Services, the Qatari plot to insult the UAE and the identities of other members of the Qatari Security Services were highly sensitive. The disclosures did not serve the interests of Qatar, which Mr Al-Hammadi said he was working for, nor those of Mr Al-Hammadi himself because of the ramifications such disclosures could have, as a member of the Qatari Security Services. Accordingly, we considered that the footage showing the apparent willingness of Mr Al-Hammadi to make these disclosures was particularly sensitive.

As noted above, it is not Ofcom’s role to determine whether the statements made in the footage by Mr Al-Hammadi were obtained under the threat of torture but rather, whether the broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Al-Hammadi. In our view, taking

account of the sensitivity of the content, we considered that a broadcaster exercising reasonable care would have made enquiries about the provenance of the footage, including whether Mr Al-Hammadi had expressly consented to the filming and the extent to which his confession was consistent with other public statements he had made. The broadcaster by its own admission failed to make any enquiries about these matters. We considered that the broadcaster's assessment that the confession was given in a "relaxed environment" was not a sufficient justification for this failure.

We therefore considered that ADMC had failed to exercise reasonable care in satisfying itself that material facts had not been presented, disregarded or omitted from the broadcast programme in a way that was unfair to Mr Al-Hammadi.

A failure to follow Practices will only constitute a breach of Rule 7.1 where it results in unfairness to an individual or organisation in the programme as broadcast⁴. We therefore went on to consider whether the way in which Mr Al-Hammadi was presented in the programme resulted in unfairness to him.

The programme presented Mr Al-Hammadi as having been convicted for crimes against the UAE. The footage of his confession was central to the broadcast and the case that was set out against him in the programme. Ofcom considered that the way the footage of Mr Al-Hammadi was used in the programme as broadcast would have led viewers to believe that there was no reason to question the validity of his confession or his criminal conviction. Further, the inclusion of the confession in the broadcast could have led viewers to perceive Mr Al-Hammadi as betraying his own country and his colleagues in the Qatari Security Services.

The broadcaster did not provide any evidence that Mr Al-Hammadi consented to either the filming of the footage or to it being included in the broadcast programme. There was also no reference in the broadcast to Mr Al-Hammadi's contention that he was forced to provide the confession under duress and on the promise of being released and that he raised these complaints with the UAE court, which would have provided viewers with context for his confession and the extent to which it could be relied upon. Taking account of the very serious nature of the case set out against Mr Al-Hammadi, the weight that was placed on Mr Al-Hammadi's confession in the broadcast programme and the potential implications for Mr Al-Hammadi of being shown to make such a confession, we considered these were serious omissions which resulted in unfairness in the way Mr Al-Hammadi was presented in the broadcast programme, in breach of Rule 7.1.

- ii) We next considered the complaint that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast because he was not given an opportunity to contribute or comment on the programme before it was broadcast. Mr Dixon said that the programme makers took no action at any time to confirm with Mr Al-Hammadi the veracity or accuracy of the footage broadcast.

⁴ See Forward to Section Seven of the Code.

In assessing this head of complaint Ofcom took account of the following Practices of the Code.

Practice 7.11 states:

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

For the reasons given in head a) i) above, we considered that the programme presented highly sensitive information about Mr Al-Hammadi and therefore the broadcaster should have exercised reasonable care to satisfy itself that material facts about Mr Al-Hammadi’s confession had not been presented, disregarded or omitted from the broadcast programme in a way that was unfair to Mr Al-Hammadi. One step towards ensuring this would have been to have offered Mr Al-Hammadi an appropriate and timely opportunity to respond to the allegations made against him in order to avoid unfairness, in accordance with Practice 7.11.

We acknowledged ADMC’s representation that: “...even if ADMC had considered it necessary to seek comment from Mr Al-Hammadi prior to the broadcast of the Programme, it could not have done so because, given the nature of Mr Al-Hammadi’s profession, his whereabouts and address at the time of broadcast were unknown to us”. However, ADMC made it clear to Ofcom that it did not consider it necessary to contact Mr Al-Hammadi for his views, and it did not provide Ofcom with any evidence of any attempt to do so. In these circumstances, and taking all of the above factors set out at head a) i) into consideration, we considered that Mr Al-Hammadi was treated unjustly or unfairly in the programme as broadcast.

Unwarranted infringement of privacy

Having considered unjust or unfair treatment, Ofcom then considered the complaint regarding unwarranted infringement of privacy. The complaint in this respect had two closely linked aspects, allegedly obtaining footage without consent and including it in the programme without consent.

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 and of the audience to receive ideas and information without undue interference. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate. This is reflected in how Ofcom applies Rule 8.1 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.

- b) We first considered the complaint that Mr Al-Hammadi's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the footage of his confession included in the programme was "obtained through duress, torture and false promises while he was being arbitrarily detained". Mr Dixon said that Mr Al-Hammadi was filmed in a private room within the facility he was being imprisoned, while discussing matters of a highly sensitive and confidential nature, in particular, about his alleged involvement in the commission of crimes for which he could be tried and face conviction. Mr Dixon said that Mr Al-Hammadi did not make the confession voluntarily, nor did he give his consent to be filmed. Mr Dixon said that the broadcaster was aware, or should have been aware, of the circumstances in which Mr Al-Hammadi was filmed before the material was broadcast.

Ofcom had regard to Practice 8.5 which states that any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted.

We assessed the extent to which Mr Al-Hammadi had a legitimate expectation of privacy in the particular circumstances in which the material included in the programme was obtained. 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.

According to the complaint, the footage of Mr Al-Hammadi was filmed in a private room in the facility where he was imprisoned. The complaint also said that the footage was filmed without his consent, while he was making a confession under threat of torture. Other than its observation that the footage showed Mr Al-Hammadi in a relaxed environment, ADMC was unable to confirm or deny his account of the filming. It said it was not involved in the filming and was not informed of the intention to film Mr Al-Hammadi in advance. It said that the footage was filmed and provided to ADMC by a "confidential third party source" and that it had no discussions with the source as to the circumstances in which the material had been filmed, including, for example, details as to where the footage was filmed.

As noted above, it is not Ofcom's role to determine whether the footage of Mr Al-Hammadi was filmed while he was under threat of torture. We have therefore not examined this aspect of Mr Al-Hammadi's complaint, but have instead focussed on the objective facts about the filming gleaned from the footage itself.

While we were unable to determine whether the footage was filmed during the course of an interrogation by the UAE authorities, on an objective view, it was clear that the footage was filmed inside, in a location that appeared private.

We also took into account the highly sensitive nature of the information Mr Al-Hammadi gave in the footage. In addition to his admissions about his own participation in crimes against the UAE as a Qatari intelligence officer, he also disclosed information about other individuals working for the Qatari Security Services who he said were also involved. We considered that these disclosures and the fact that Mr Al-Hammadi had made them were highly confidential. Therefore, taking all the

circumstances revealed by the footage into account, we considered that Mr Al-Hammadi had a legitimate expectation of privacy while he was being filmed.

We next considered whether Mr Al-Hammadi had consented to the obtaining of the relevant material. It was clear from the footage that Mr Al-Hammadi was aware he was being filmed. However, he complained that he did not consent to being filmed at the time. As noted above in relation to the application of Practice 7.3, the broadcaster took no action to ascertain whether Mr Al-Hammadi had been provided with information to secure his informed consent to the filming. In these circumstances, we were not satisfied on the evidence before us that Mr Al-Hammadi's consent to being filmed for the broadcast programme had been obtained.

Having come to the view that the footage had been obtained without his consent, Ofcom was satisfied that the filming of Mr Al-Hammadi was a significant intrusion into his legitimate expectation of privacy. We therefore considered whether any such infringement was warranted.

The Code states that "warranted" has a particular meaning. Where broadcasters wish to justify an infringement of privacy, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest could include revealing or detecting crime, protecting public health and safety, exposing misleading claims by individuals or organisations or disclosing incompetence that affects the public.

Ofcom considered carefully ADMC's response as summarised above and in particular that:

"We contend that there was in fact no right to privacy in the material, and if there had been, any infringement would be warranted because we did not know and could not have been aware that the material might be private. We also respectfully disagree that any breach of privacy would outweigh the public interest in broadcasting the interview".

ADMC submitted that the factual premise that Mr Al-Hammadi was filmed for the purpose of a television broadcast was not made out. It said that neither Ofcom nor ADMC were in a position to know why the footage was filmed.

As explained above, ADMC made no enquiries to ascertain the circumstances in which the footage of Mr Al-Hammadi had been filmed, including whether he had consented to the filming. However, ADMC decided to broadcast a programme which included the footage of Mr Al-Hammadi. As a licensed broadcaster, it is responsible for ensuring that it complies with the Code. Accordingly, it should have considered whether the filming of Mr Al-Hammadi for the purposes of a television broadcast was an infringement of Mr Al-Hammadi's privacy and if so whether that infringement was warranted.

In relation to the question of whether the infringement was warranted, we considered that the programme reported serious matters which would have been of significant public interest, namely

Mr Al-Hammadi's conviction in the UAE and allegations that the Qatari Security Service was involved in setting up false social media accounts and websites and using them to "slander" the UAE. We considered that it was important for broadcasters to be able to make programmes which report on news stories with a view to imparting information about such topics to the audience. However, we considered that the filming of Mr Al-Hammadi for the purposes of a television broadcast was a significant intrusion into his legitimate expectation of privacy, given our findings that he was in a location that appeared private at the time and the highly sensitive and confidential nature of the disclosures that he made. In the absence of any measures on the part of the broadcaster to verify the circumstances which had led to Mr Al-Hammadi's interview and to ensure his consent had been obtained, we considered that such a significant intrusion into his privacy was not warranted by the public interest in reporting on the matters addressed in the programme.

Accordingly, Ofcom is satisfied that Mr Al-Hammadi's legitimate expectation of privacy was unwarrantably infringed in connection with the obtaining of the broadcast footage.

- c) We next considered Mr Al-Hammadi's complaint that his privacy was unwarrantably infringed in the programme as broadcast because footage of him was included in the programme without his consent.

We had regard to Practice 8.6 of the Code which states that 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 considered the extent to which Mr Al-Hammadi had a legitimate expectation of privacy in relation to the footage of him being included in the programme, taking into account the context in which he was filmed, as set out in detail in head b) above. For the reasons already set out at head b), we considered that the footage of Mr Al-Hammadi included in the programme as broadcast was of a highly sensitive and confidential nature. We therefore considered that he had a legitimate expectation of privacy regarding the inclusion of the footage in the programme as broadcast.

As noted in head b) above, there was no evidence that Mr Al-Hammadi's consent to being filmed had been secured. The broadcaster admitted that it had not subsequently obtained his consent for the interview to be broadcast. We therefore considered that the broadcast of the footage was a breach of Mr Al-Hammadi's legitimate expectation of privacy.

Ofcom therefore went on to consider whether the broadcast of the material was "warranted" within the meaning set out in the Code (see above under head b)).

We carefully balanced Mr Al-Hammadi's right to privacy regarding the inclusion of the relevant footage in the programme with the broadcaster's right to freedom of expression and the audience's right to receive the information broadcast without unnecessary interference. We acknowledged ADMC's view that:

“At the time of the broadcast of the Programme, the UAE and Qatar (and other Middle Eastern nations) were embroiled in the height of the Qatar diplomatic crisis. The crisis was triggered by Qatar’s alleged support and financing of terrorist groups including Hamas, and Qatar’s alleged violation of its obligations as a member of the Gulf Cooperation Council. Public interest in broadcasting information concerning matters relating to Qatar’s conduct in the region was therefore very high. As such, we consider that the public interest in broadcasting the Programme contemporaneously with the crisis outweighs any claims that Mr Al-Hammadi may seek to invoke in relation to his own privacy”.

We considered there was a public interest in the programme in that it concerned allegations that the Qatari Security Service was involved in setting up false social media accounts and websites and using them to “slander” the UAE. Further, we considered it was important for the broadcaster to be able to make a programme of this nature and to film and include the testimonies of individuals who had been involved in the events discussed in the programme. However, as with head b) above, we considered that the inclusion of the footage of Mr Al-Hammadi in the broadcast programme was a significant intrusion of his privacy, given the highly sensitive and confidential nature of the disclosures he made. We considered that the public interest in broadcasting the programme did not warrant the significant intrusion into Mr Al-Hammadi’s legitimate expectation of privacy without having taken further measures to verify the circumstances which had led to the interview and to confirm that his consent had been obtained.

On this basis, Ofcom considered that Mr Al-Hammadi’s legitimate expectation of privacy was unwarrantably infringed in the broadcast of the footage of him included in the programme.

Ofcom has upheld Mr Al-Hammadi’s complaint of unjust or unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Ofcom considers the breaches of Rules 7.1 and 8.1 of the Code to be serious. We are therefore putting the broadcaster on notice that we intend to consider the breaches for the imposition of a statutory sanction.