

Ofcom broadcast bulletin

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Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

The Communications Act 2003 allowed for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. While Ofcom has now published its Broadcasting Code, the following legacy Codes apply to content broadcast before 25 July 2005.

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Distribution of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

Standards cases

In Breach

Planet Rock Profiles

Performance Channel, 8 January 2006, 12:00

Introduction

This programme profiled the New Orleans musician Dr John. We received a complaint from a viewer who had watched the programme with his young son, and objected to the inclusion of swearing (“shit”, “fuck” and derivatives).

Response

Eicom, which owns the Performance Channel, apologised and acknowledged that the language was unacceptable for broadcast at this time of day. The licensee had already apologised to the complainant.

Eicom explained that the programme had been provided only 24 hours before transmission by the distributor and had to be immediately entered into the playout system. Therefore it had not been checked before transmission. However, it had since conducted a complete review of its systems in order to avoid a recurrence.

Eicom also said that its sales agents and suppliers had a standing instruction to advise it of any potentially problematic issues within a programme. It had therefore decided not to take any more programming from this particular distributor.

Decision

Rule 1.14 of the Broadcasting Code requires that “the most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening”. This programme featured repeated use of very strong language (“fuck” and derivatives) and was unsuitable for broadcasting at that time.

We welcome the steps that the broadcaster has taken to prevent recurrence. However it remains the responsibility of the broadcaster, not of any third party, to ensure compliance with the Broadcasting Code. It is of particular concern that a broadcaster would transmit pre-recorded material without viewing it first.

This is the second time that the channel has experienced a failure in its compliance procedures in five months (see also bulletin 46). Any recurrence of similar breaches may lead to the consideration of further regulatory action.

Breach of Rule 1.14

Resolved

Cash Lounge

Men & Motors, 8 December 2005, 16:30

Introduction

Cash Lounge is an interactive quiz programme. A viewer complained that a song used as background music featured offensive language (“*nigga*”, “*shit*”, “*fuck*”).

Response

Men & Motors is owned by ITV plc. ITV accepted that the song featured was inappropriate and apologised for its inclusion in the programme. The track was played as a result of an error by the producers. Although music was routinely edited to make it suitable for a given time slot, on this occasion an unedited version of the song was played live by mistake. As a result of the complaint, ITV had reinforced its guidance to the producers to prevent recurrence.

Decision

This appears to be an isolated error on a programme and channel that are unlikely to appeal to children. In view of the action taken by ITV to prevent a recurrence of the mistake, we consider the matter resolved.

Complaint resolved

Not in Breach

Derren Brown: The Heist

Channel 4, 4 January 2006, 21:00

Introduction

This latest programme from 'psychological illusionist' Derren Brown involved selecting a group of people to see if he could influence one or more of them to make an apparently 'voluntary' attempt to steal from a security guard. The guard was transferring what appeared to be £100,000 in cash to a security van in a London street. The programme's audience witnessed the process of selection, including psychological techniques which might guide their 'voluntary' decision, and their subsequent attempts, or otherwise, to rob the security guard, involving a plastic replica pistol.

One of the techniques used in the selection process to assess suggestibility of possible participants was the Milgram experiment. Designed in the 1960s, it attempts to explore how willing a subject was to inflict pain on others, simply because they had been told to do so by a person in authority.

Seventeen viewers complained about one or more of the following - that this programme:

- was harmful to the participants, especially in the use of the Milgram experiment;
- trivialised armed robbery and either glamorised it or made it seem relatively simple to do;
- condoned shoplifting.

Decision

Derren Brown describes himself as a 'psychological illusionist'. This programme featured a group of professional people, of varying ages, who had applied to attend a motivational workshop, led by Derren Brown and which would be televised. However the hidden intention was to see whether certain participants could be influenced, by various psychological methods, to carry out an act which would be alien to their normal behaviour. This act was to steal cases of cash from a security guard on his way to a security van. Derren Brown made clear that he had chosen the selected people on the grounds of their potential to respond to the influences they would encounter. The programme showed the group undertaking various tasks, including testing their ability to resist an instruction from an authoritarian figure. These tests included their willingness to apparently administer an electric shock to another person (in the style of the Milgram experiment) and to undertake a crime like shoplifting. This led some into a frame of mind where they were more likely to undertake the final act of stealing cash from the security guard.

It was made clear to the participants immediately after the Milgram experiment exactly what they had been involved in and we do not believe that this would have had long-term negative effects.

The selected people had been chosen on the basis that they were, apparently,

suggestible, and most were undoubtedly influenced in their decision-making. Whether they ultimately made an attempt to steal from the security guard was a matter for them alone. The participants were adults who had chosen to become part of the programme, and gave their further consent to its broadcast. The majority of adults can make informed judgements about participating in such programmes and it is not for Ofcom (or the general public) to make that decision for them.

The broadcaster had been responsible in terms of the protective measures it had put in place, for example, the use of independent psychologists and the evident monitoring and concern for the contestants' physical and psychological well-being.

Turning to the more general question of incitement to crime, the Broadcasting Code requires that:

2.4 Programmes must not include material (whether in individual programmes or in programmes taken together) which, taking into account the context, condones or glamorises violent, dangerous or seriously antisocial behaviour and is likely to encourage others to copy such behaviour.

3.1 Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services.

In our view, the events portrayed in the programme did not involve an actual criminal act as the shop owners were complicit with the experiment and the security van was a complete fiction. In terms of whether the participants might go on to commit further acts after the programme, we considered the following:

- Whilst there was no doubt that the participants had been subjected to a form of 'programming', which ultimately led three of them to perform what was, as far as they understood it at the time, a criminal act, the effects were clearly artificially induced.
- It was plain that at no time in the future was it likely that the exact same sequence of events would come together at precisely the same time to produce anything approaching a similar effect.
- It was also pointed out at the end of the programme that, in any case, the participants had been 'de-programmed' of those influences, and that they had been cleared of any long-term effects by an independent psychologist.

In terms of the viewers, we considered that:

- The sequence of some of the participants shoplifting in the store made it clear that this is not an acceptable form of behaviour. There were no criminal techniques portrayed that are not common knowledge. It was clear that people did not "get away with it" and the programme also made clear that one person refused to participate because of the illegality of the act he had been asked to perform.
- The scenes featuring the "security van" were sufficiently artificial; for example, the van was parked in a completely empty street and there was only one security guard carrying two boxes, which is never the case in reality.
- It was also clear that the programme did not condone or encourage this behaviour, in fact its whole premise was to see if normally law-abiding people would act outside what is understood to be acceptable behaviour. Two participants on two separate occasions pointed out that they believed any such law-breaking was absolutely wrong.

It should also be noted that the police had clearly been involved in this experiment throughout - to the extent of cordoning off an area of a London street so that the programme could conduct its experiment.

We therefore feel that this programme did not condone or glamorise this behaviour and was unlikely to have encouraged anyone to copy such behaviour in the belief that attempts of this nature were either easy or somehow worth attempting because, for example, they might be exhilarating. There was a significant shock factor, both for viewers and the participants, when some participants actually chose to steal the money. These participants were immediately surrounded and subdued and it was their incredulity at their own actions which formed the abiding effect of the final sequences.

For these reasons, we consider that the programme was not in breach of the Code.

Not in breach

Fairness and Privacy Cases

Upheld/Upheld in Part

Complaint by Mr Erich Reich of Classic Tours

Watchdog, BBC1, 7 December 2004

Summary: Ofcom has upheld this complaint of unfair treatment. Mr Erich Reich complained that both he and his company, Classic Tours, were treated unfairly in this edition of BBC1's consumer affairs programme *Watchdog*. The programme featured three women who were dissatisfied with aspects of Classic Tours trips they went on.

Ofcom took the view that, given the programme's reassurance that Mr Reich would only be interrupted if he lied, Mr Reich had a legitimate expectation that the interview would be conducted in a certain manner, which it was not. This led to unfairness to Mr Reich because he was unable to respond in his own way and it was unlikely that he would have agreed to have taken part in the programme if he had not been given such an assurance.

Although Mr Reich was aware that Ms Charlotte Stretton, a trainer for expedition leaders, had been interviewed by the programme makers, he was unaware of exactly what she had said because she did not appear in the pre-recorded report. He had been led to believe that only issues raised in the pre-recorded film would be put to him in his live interview. Mr Reich was therefore taken by surprise when Ms Stretton's views (which were paraphrased) were put to him in the live interview. Ofcom considered that Mr Reich was unable to respond in the way he might have done had she appeared in the report and therefore had he known what she had actually said in full. This resulted in unfairness to him in the programme.

Ofcom also concluded that the programme failed to reflect relevant comments from the doctor who accompanied the cycle trip along the Nile, which contradicted some of the criticisms raised, and this failure was unfair to Classic Tours and was compounded by the fact that some of these issues were not put to Mr Reich in interview.

Ofcom also found unfairness to Classic Tours in the programme's failure to put to Mr Reich in interview criticisms about the provision of food and water on the Nile trip and the failure to mention the availability of a coach for struggling cyclists.

Finally, Ofcom considered that the item gave the impression that Classic Tours was unregulated. This was inaccurate and compounded the other elements of unfairness.

Introduction

The programme featured an item that included pre-recorded interviews with three women who were dissatisfied with aspects of Classic Tours trips they went on. One tour mentioned was a cycling trip on the banks of the Nile and the other was a camel trek in Outer Mongolia. Two of the women said that there was not enough food and water provided at times during the cycling trip along the Nile and that the medical cover for the trip was inadequate. Mr Reich, the managing director of Classic Tours, was interviewed live in the studio for the item. He was questioned about the adequacy of the medical cover on the cycling trip and comments by a

trainer of expedition leaders, of which he was not aware in advance, were put to him. The programme described the cycling trip as a “holiday”. However, before answering any questions in the interview, Mr Reich explained that the trips operated by the company were “challenges” and not “holidays”.

Mr Reich complained that he and Classic Tours were treated unfairly in the programme.

Ofcom’s Executive Fairness Group originally considered and provisionally adjudicated on this complaint finding that parts of the programme had been unfair to Mr Reich.

Mr Reich requested a review of the provisional finding in respect of heads a) and b) the complaint of unfair treatment, which had not been originally upheld.

Ofcom’s Fairness Committee (its most senior decision making body with regard to fairness and privacy complaints) met to consider afresh heads (a) and (b) of Mr Reich’s complaint of unfair treatment in the programme. It did not reconsider the remainder of Mr Reich’s complaint.

Complaint

Mr Reich’s case

In summary Mr Reich complained that:

a) He was assured a minimum of three minutes uninterrupted air time to respond to a five or six minute pre-recorded, uninterrupted complaint about the two trips, but was only given 90 seconds and was constantly interrupted and not allowed to finish his sentences. He was assured prior to his interview that he would only be interrupted if the programme-makers thought he was lying. Mr Reich had felt it necessary to clarify at the outset of the interview that the programme’s use of the word “holiday” was misleading since the trips his company organised were “challenges”. This took time from the interview that Mr Reich would have used to answer the questions that were put to him.

b) A pre-broadcast agreement that only matters covered in the pre-recorded film would be addressed in the interview was not honoured. A statement made by Ms Charlotte Stretton, who trains leaders for a number of organisations, including the Royal Geographic Society, regarding the appropriate number of medically trained staff for a trip such as the Nile Cycle challenge, was raised in Mr Reich’s interview. However, the interview in which she made this statement was not included in the pre-recorded film that Mr Reich saw before his live interview, her comments were paraphrased, and it was not until he complained about the programme that he found out what she had actually said.

c) Although the programme-makers had received emails from other participants on the same challenges indicating that the complaints were untrue, these were not mentioned. These had come from members of the public who wished to express their views and had not been generated by Classic Tours.

d) Many of the complaints included in the programme were not true, in particular complaints relating to the lack of availability of food and water. It was also alleged that participants were forced to continue cycling even though they were unable to do so. The programme should have mentioned that a coach was available for cyclists

who were struggling.

e) A statement in the programme that Classic Tours was unregulated was untrue. The regulations that apply to the challenges require Classic Tours to give prospective client full details of the package.

The BBC's case

In summary, the BBC responded to Mr Reich's complaint as follows:

- (a) Mr Reich was promised and was given a three minute interview. The presenter did interrupt him several times, to ensure that the relevant and agreed issues were addressed. Mr Reich had used the beginning of the interview to question the use of the word "holiday" in relation to the trips. The programme team assumed that Mr Reich would acknowledge failings in Classic Tours organisation and mention the changes planned for future trips, as he had in previous correspondence with the complainants, which the BBC had seen. They believed it was essential to press him on these matters and not let statements that contradicted his own accounts of his company's mistakes go unchallenged. When issues regarding medical support for the Nile trip were raised in the interview, Mr Reich changed his position. He did not accept responsibility for what had happened to some members of the trip and acknowledge that changes would be made for future trips, as he had in correspondence prior to the broadcast. Instead, he suggested that the complainants were in the minority. Mr Reich should not have been surprised therefore when the presenter did not let his comments pass unchallenged.
- (b) Mr Reich was informed in advance of everything the contributors wished to raise and that the pre-recorded report would form the basis of the interview. Nothing was raised that was not in the pre-recorded report. Although Mr Reich was not aware that Ms Stretton's contribution would be referred to in the interview, he did know that she had been interviewed and was aware that the question of whether one doctor was sufficient for the Nile trip had been raised and should have been prepared to be questioned on it.
- (c) Emails in support of Classic Tours were in fact generated by the company itself and did not provide an answer to the genuine and well-founded complaints that the programme was addressing.
- (d) The complaint that there was insufficient water was raised by one of the women who went on the Nile trip. Two participants complained about lack of food on arrival at the beginning of the Nile trip. As far as the coach was concerned, the women had signed up for a bike ride, not to travel by coach.
- (e) The only regulations that apply to Classic Tours are those that apply to ordinary holiday companies and relate to matters such as flight and transfer arrangements, not the actual challenges themselves. The item did not imply that Classic Tours was operating beyond the scope of standard regulation, but that guidelines for this type of adult activity are non-existent.

Mr Reich's additional comments

In summary, Mr Reich said that:

- (a) *Watchdog* had promised him that he would not be interrupted unless it was felt that he was lying. He said that it was unlikely that he would have agreed to the interview had this promise not been made; and,
- (b) He was unable to respond as fully as he would have done because he was unaware of specific comments made by Ms Stretton who, although interviewed, did not appear in the pre-recorded film.

BBC's comments in response

In summary, the BBC responded that:

- (a) Mr Reich had interpreted the assurance about interruption in a literal sense without paying sufficient regard to context. Before the broadcast, Mr Reich had raised a number of queries about the practical sides of programme-making that demonstrated that he did not approach his participation in the programme on the basis of naïve and ill-informed assumptions; and,
- (b) The assurance given to Mr Reich was not an assurance that his interview would be confined to issues contained in the report. It was an assurance that it would be confined to issues raised by the contributors to the report. Mr Reich was aware that the issue about the adequacy of medical provision was referred to by one of the contributors and that it was a topic that the programme-makers had informed him would be at issue. The BBC said that Mr Reich could readily have given a reasonable answer, whether or not he was surprised by Ms Stretton's assessment.

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 unfair treatment in programmes included 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, consistent and targeted only at cases in which action is needed.

In the circumstances of this case, Ofcom accepted that the programme aired legitimate concerns raised by some people who had been on two Classic Tours trips. The programme also made reference to the large sums of money raised by Classic Tours for charity.

In particular, Ofcom found that:

- (a) The interview with Mr Reich did last three minutes. While it was reasonable for him to challenge the use of the word "holiday" to describe the trips organised by Classic Tours, this took up over half a minute of the interview. This was because it appeared that the interviewer was not immediately prepared to accept Mr Reich's correction that these trips were in fact "challenges" and not holidays. The question of the medical cover for the Nile trip also took up around three quarters of a minute of

the interview time. As a result, some of the other concerns raised by the programme were not put to Mr Reich and so he was unable to answer them.

From the material supplied to Ofcom, it considered that Mr Reich was given extensive information before his interview and saw the pre-recorded report earlier in the day, so he was aware of the matters that were likely to come up. However, he was also told in writing before he agreed to the interview that *"Watchdog does tend to interrupt people, but only when they are the kind of people who lie, which we have to pick up on"*. Mr Reich was interrupted around 10 times in a 3 minute interview, as *Watchdog* wanted him to address and acknowledge the problems that had occurred and the changes that the company had made. Mr Reich approached the interview by defending Classic Tours. Ofcom noted that he accepted in his correspondence with the people who were not happy with the trips that, as result, some changes would be made for future Nile trips. For instance, more staff, both medical and other, would be provided as well as a longer acclimatisation period at the beginning of the trips. Mr Reich did not refer to these changes in the interview. However, Ofcom have been provided with nothing to suggest that he was aware that *Watchdog* expected him to make such acknowledgments and no direct questions asking him if any changes were going to occur as a result of these criticisms were put to him.

Ofcom took the view that interruption is likely to occur in a live consumer programme particularly where the interviewee is responding to criticism. However, it considered that the programme's assurance that Mr Reich would only be interrupted if he lied created an expectation that the interview would be conducted in a certain manner, which it was not. In reaching this view, Ofcom noted that, following the assurance he was given, Mr Reich had agreed *"despite grave misgivings"* to appear on the programme and also noted that in doing so he made his apprehensions very clear, prior to the interview, saying *"I sincerely hope you will keep your promise and allow me to respond to the issues raised in my own way and without undue harassment or interruptions"*. Ofcom considered it was clear from this and from Mr Reich's submissions that it was unlikely he would have agreed to have taken part in the programme if he had not been given such an assurance, which, in the circumstances, should not have been made. This level of cajoling was not fair treatment and lead to unfairness to Mr Reich in the programme as broadcast because he was unable to respond in his own way and without harassment or interruption.

(b) It was clear from the material provided to Mr Reich in advance and from the pre-recorded interviews that the question of the adequacy of the medical cover on the Nile cycle trip was an issue that was likely to be raised. Mr Reich was also aware that the programme-makers had interviewed Ms Stretton in her capacity as a trainer for expedition leaders. However, he was told that the interview *"acts as an opportunity to respond to the issues raised by the contributors to the report"* and also that it would be his chance *"to respond to what the women in the film have to say"*. Rightly or wrongly, he was therefore led to believe that only issues raised in the pre-recorded report itself would be put to him in his live interview. Mr Reich was therefore taken by surprise in the interview when it was suggested that Ms Stretton felt that, specifically "four" medics was the appropriate number for such a trip. The interview in which Ms Stretton had made the statement was not included in the report. He was therefore unaware of exactly what she had said. Also, the programme's presenter had paraphrased Ms Stretton as having said *"if you've got a challenge like this, with a hundred or so people going on it, minimum you need four medics"*. Notably it was not explained what Ms Stretton had meant by the word "medics" and what she had actually said was that she would *"probably recommend that there be at least four medically qualified or trained people. Not necessarily doctors but certainly people"*

who have got a very good knowledge of first aid...” would be acceptable. In these circumstances, Ofcom considered that Mr Reich was unable to respond in the way he might have done (by explaining that there were others who had full first aid training) had she appeared in the report and therefore had he known what Ms Stretton had actually said in full. This resulted in unfairness to Mr Reich in the programme.

(c) While the programme-makers were under no obligation to refer to positive emails about Classic Tours generally, Ofcom noted that the actual doctor who was on the Nile trip had emailed the programme in advance with comments about the medical cover and the availability of food and water. Since these comments were directly relevant and contradictory to the criticisms raised by the women who appeared in the item and were made by a professional who was on the trip, they should, in Ofcom’s view, have been reflected within the programme. The failure to do so was compounded by the fact that, the complaints in the programme about the food and water provision were not put to Mr Reich in his live interview. Mr Reich was therefore not able to put his version of events. This was unfair to Mr Reich and Classic Tours.

(d) Since the two women who were not satisfied with the Nile trip raised the question of the availability of food and water, it was reasonable to refer to this in the item. The email from the doctor cast some doubt on their version of events, in that it suggested that they might not have been aware of the full situation. This should either have been dealt with within the pre-recorded item or been put to Mr Reich. As far as the availability of the coach is concerned, given that Classic Tours was criticised for not providing sufficient help for struggling cyclists, the fact that a coach was available should have been mentioned. There was therefore some unfairness to the company in the programme’s handling of these complaints by participants on the Nile trip.

(e) It was inaccurate to suggest that Classic Tours was subject to no regulation. There are regulations, with which Classic Tours has to comply. While it was true to say that the regulations are not as extensive as those that would apply to a school trip, the impression given that Classic Tours was unregulated compounded the other elements of unfairness in the programme. This was unfair to Classic Tours.

Accordingly, Ofcom upheld the complaint of unfair treatment.

Complaint by Mr Murdo Maclean

Isles FM News, Isles FM, 14 March 2005

Summary: Ofcom has upheld part of this complaint of unfair treatment. Mr Maclean complained that he was unfairly treated in the programmes as broadcast. The complaint concerned a retraction broadcast on several occasions by Isles FM. Mr Maclean complained that the retraction, which apologised for an earlier news piece written by him, resulted in unfairness to him. He complained that the retraction: was inaccurate; caused his personal and professional reputation to suffer; was issued without consultation with him; was not withdrawn during the evening of the day of broadcast; and, was not followed by a broadcast correction, explanation or apology nor any justification. He further complained that the Chairman of Isles FM removed the news item in spite of a number of conflicts of interest. Isles FM was unable to provide a recording of either the original news item nor the subsequent retraction due to a failure to record output.

Ofcom concluded that Isles FM was fully entitled to discontinue a news story and that this did not cause unfairness to Mr Maclean. However the broadcast of the retraction did result in unfairness to him. Mr Maclean was not consulted about the retraction and was identifiable as the author of the original news story, which could have resulted in adverse consequences for his personal and professional reputation. The failure to withdraw the retraction during the evening of the day of broadcast; the failure to justify the retraction; and, the failure to broadcast an apology all resulted in unfairness to Mr Maclean in the programmes as broadcast.

Ofcom will separately investigate Isles FM's failure to record output and the elements of the complaint relating to the actions of the Chairman of Isles FM.

Introduction

Isles FM is a commercial radio station providing news and information for the Western Isles of Scotland. On 14 March 2005 Isles FM broadcast a news item at 0730, 0800, 0830 and 0900. This item concerned the employment tribunal of Mr Donald John MacSween, former chief executive of a Gaelic development agency An Comunn Gaidhealach ("An Comunn"). The item announced the further postponement of the employment tribunal, stating that the hearing was likely to be "highly critical" of An Comunn's president Angus MacDonald. Angus MacDonald is also the Chairman of Isles FM. The item also stated that the legal action would focus on An Comunn's "massive cash deficit" caused by the chartering of a cruise liner needed for extra accommodation during the Royal National Mod (Gaelic festival). The item was written by the complainant Mr Murdo Maclean.

No recordings of the news items were made and this failure to record output will be dealt with separately after publication of this adjudication. Transcripts of the news broadcasts provided by Isles FM, were agreed by Mr Maclean.

On the afternoon of 14 March 2005, at 1630, 1700, 1730 and 1800, Isles FM broadcast a retraction of and an apology for the news item. According to the Isles FM transcript, the retraction stated: that the information contained in the earlier news item was "incorrect"; and, neither An Comunn Gaidhealach nor its president Angus MacDonald, who is also the Chairman of Isles FM, were given an opportunity to respond to the item. Isles FM apologised to them unreservedly.

No recordings of the retractions were made and this failure to record output will be

dealt with separately. The transcripts of the retractions, of 14 March 2005, were accepted as correct by Mr Maclean with one exception. Mr Maclean disputed the 1630 transcript provided by Isles FM, stating that the broadcast did not include the words "who is also the Chairman of Isles FM".

The Complaint

Mr Maclean's case

In summary, Mr Maclean complained that he was treated unfairly in that:

- a) Isles FM broadcast an inaccurate, unsubstantiated and not impartial retraction to the original news item he wrote. This was unfair to him.
- b) Isles FM's statement of retraction referred to inaccuracy in the original news item and thereby claimed that the original item was a lie. Because the original news item also appeared in a regional newspaper with similar wording and a by-line, Mr Maclean could be linked to the retracted story and his personal and professional reputation and integrity had suffered as a consequence.
- c) Isles FM failed to consult him before broadcasting this retraction, which claimed his original news item was untrue, despite Mr Maclean voicing his concerns.
- d) Isles FM failed to withdraw the retraction during the evening of 14th March 2005.
- e) After withdrawing the retraction, Isles FM: failed to broadcast a prompt correction, explanation and apology to Mr Maclean, in spite of his request to do so; and, have failed to do so since or to offer Mr Maclean a right of reply as an alternative.
- f) Isles FM failed to justify their decision to broadcast the retraction of his original news item.
- g) Isles FM Chairman, Mr Angus MacDonald, pulled the news item, thereby causing unfairness to Mr Maclean, in spite of a number of conflicts of interest, namely that:
 - he was the complainant in the original news item;
 - his company sponsors the breakfast programme in which this item was broadcast;
 - he is Chairman of Isles FM board and the radio licence holder; and
 - he was present at the board meeting which discussed his complaint about the news item and the subsequent retraction.

Isles FM's case

In summary Isles FM responded as follows:

- a) Mr Maclean's original news item was not correct or accurate:
 - correspondence from An Comunn Gaidhealach and its solicitors (McGrigor's) confirms that the tribunal was to be restricted to events after June 2002 and it was therefore misleading for the item to state that "some of the legal action will focus on the massive cash deficit caused...when the Mod was last on Lewis" (which was in 2001) and,
 - the item also stated that the tribunal had been postponed again when this was the first postponement of the actual hearing.
- b) The Isles FM Managing Director accepted she may have acted hastily and incorrectly in the wording of the broadcast retraction and that a right of reply should have been offered to An Comunn when the original news item was broadcast. A letter of apology was sent also to Mr Maclean (a copy was supplied Ofcom).

Isles FM further clarified:

- the letter to Mr Maclean dated 22 March 2005 makes it clear that Isles FM was sorry for its misjudgement and lack of foresight when it retracted the news item and broadcast the on-air apology without consulting the parties concerned, especially Mr Maclean;
 - the letter did however make clear that at the time the directors had reason to believe that the news item he had contributed was inaccurate and made the following points:
 - the news item stated "Some of the legal action will focus on the massive cash deficit caused by the chartering of a cruise liner to stave off an accommodation crisis when the Mod was last on Lewis";
 - Isles FM has established that the Mod was last on Lewis in October 2001;
 - correspondence from McGrigors (Solicitors) "confirmed: 'Any allegations...which relate to events pre-dating June 2002 will not be relevant to the hearing'";
 - the Isles FM Managing Director was therefore of the view that the news item contained a gross, and possibly deliberate inaccuracy, for which responsibility lay with the complainant and/or his source and this merited the item's immediate withdrawal;
 - the Directors of Isles FM were still unaware of any information which would not support the decision immediately to withdraw the item; and,
 - Isles FM apologised only for not consulting the parties for their views; it was not apologising for halting the further broadcast of a grossly untrue news item.
- c) The complainant's concerns (regarding the retraction) were noted and Isles FM

knew of no reason why it should take any such further action. See also responses at heads (a) and (b) above.

- d) Isles FM knew of no reason why it should take any such further action (in answer to Mr Maclean's complaint that Isles FM failed to withdraw the retraction during the evening of 14 March).
- e) Isles FM knew of no reason why it should take any such further action (in answer to Mr Maclean's complaint that Isles FM failed to broadcast a prompt correction, explanation, apology or right-of-reply to Mr Maclean).
- f) The retraction was justified by the correspondence from McGrigors (Solicitors) referred to above. This evidence would have been presented to the complainant at a planned hearing with the Directors, had he not lodged a complaint with Ofcom.
- g) The Chairman of Isles FM had no authority to pull a news item nor has he ever done so as this is the responsibility of the Managing Director:
 - sponsors of programmes have no editorial control or influence; there is no conflict of interest regarding sponsorship; and
 - the only meeting which took place was not a formal Board meeting but an informal gathering of the Directors; the Board was faced with a contributor who had: filed an inaccurate news story, which failed to seek the views of the organisation referred to; failed to clear the item with the News Editor; and, denied any responsibility.

Mr Maclean's comments on Isles FM's response

In summary Mr Maclean commented that:

- a) Isles FM unfairly suggested that the whole news story was wrong when it only disputes two out of five points made in the story. It was therefore unjustified in retracting the whole story. It was reasonable to run the story for reasons which include evidence from Mr MacSween, knowledge of his forthcoming tribunal being in the public domain, the lack of availability of Mr MacDonald and Mr Maclean's intention to balance his response in subsequent bulletins:
 - the retraction broadcast at 1630 did not indicate that Mr MacDonald was also the Chairman of Isles FM. The news editor confirmed that the wording of the retraction was phoned in by the Managing Director of Isles FM. The news editor reminded the Managing Director that the retraction must indicate that Mr MacDonald was also the director of Isles FM, and that the Managing Director agreed, re-wrote the retraction and faxed it. The fax was sent to Isles FM from her employer's office (timed at 16.33) three to four minutes after the broadcast of the bulletin, and after the original had been read out. Mr MacSween and his wife also confirmed that the 16.30 retraction did not include the disputed wording. Isles FM did not supply this true copy of the actual retraction;
 - the cruise liner required for the Royal National Mod and its financial situation was not the direct remit of the tribunal but Mr MacSween planned to focus a lot of the attention onto the issue. It was therefore reasonable to include

that “some of the legal action will focus” on the ship and its financial situation. Isles FM states that correspondence from McGrigors, An Comunn’s solicitors, confirms that “Any allegations...which relate to events pre-dating June 2002 will not be relevant to the hearing”. However Mr MacSween has consistently stated that he fully intended to pursue issues surrounding the cruise liner and the resultant financial situation at his tribunal. Isles FM could only have discovered the true position by seeking the views of Mr MacSween or Mr Maclean which they did not do. Isles FM took no action to balance Mr MacDonald’s complaint, but allowed him exclusively to advise on and supervise the progress of his own complaint in spite of mutual loathing between Mr MacSween and Mr MacDonald; and,

- Mr MacSween confirmed that his tribunal was delayed and postponed on several occasions between August 2003 and May 2005. He stated that on at least three occasions he was given dates for the hearing and to notify witnesses. This was also confirmed by a DTI spokesman and BBC radio coverage of the expected hearings.
- b) Isles FM offered an apology only after it became aware Mr Maclean had lodged a complaint to Ofcom. A news item regarding the Ofcom complaint was read out on Isles FM bulletins on the morning to Tuesday 22 March 2005, the day after the BBC carried the story. The apology from Isles FM seemed to be an attempt to pre-empt any recommendation from Ofcom. A memo from Isles FM indicates the directors readily accepted their error and considered changing the station’s guidelines.

The original apology has altered following Ofcom’s involvement. The original accepts that Isles FM made an unqualified error of judgement in broadcasting the retraction, now Isles FM states that the letter of apology was only in terms of incorrect wording, right of reply and lack of consultation. This is misleading and inaccurate. The original letter of apology and the memo are evidence that the directors realised they had erred in broadcasting the retraction.

- c) Isles FM fully admitted that it did not consult Mr Maclean or Mr MacSween after receiving the complaint from An Comunn. An exclusive liaison with Mr MacDonald is unfair. Isles FM argues that the letter sent by An Comunn Gaidhealach’s solicitors (McGrigor) gave reasonable grounds to pull the news story and broadcast the retraction. However, reasonable grounds could only have been achieved by consulting Mr Maclean or Mr MacSween and the retraction was therefore unfair.
- d) No further comment was made regarding withdrawing the retraction.
- e) No further comment was made regarding the broadcast of a prompt correction, explanation, apology or right-of-reply.
- f) Isles FM suggested that its intention to set up a hearing was pre-empted by the complaint to Ofcom. Mr Maclean does not believe Isles FM ever intended to do so. It had never before held such a hearing and makes no reference to it in its letter of apology.
- g) Isles FM accepted that Mr MacDonald does not have any authority to pull a news item; however:

- news items are usually repeated on Isles FM over a number of hours or even days. However this news item was not re-broadcast after 0900 and this has not been explained;
- a volunteer at Isles FM confirmed that they had received a phone call from Mr MacDonald ordering that the story be pulled, and had therefore done so;
- Isles FM did not explain why the story was not re-broadcast after this phone call and the lack of any recording of output is to their advantage;
- the recording of output would have shown that Mr MacDonald's firm's sponsor jingle was positioned immediately adjacent to the news bulletin. It would also have been evidence of the tone of the verbal reading of the retraction. It was disappointing that Isles FM will not provide recordings when it had promised the Radio Authority that it would maintain its equipment in light of an earlier malfunction; and,
- Isles FM did not deny that Mr MacDonald was present at the board meeting which dealt with his own complaint and which enacted actions he demanded, resulting in difficulties over impartiality, fairness and transparency.

Isles FM's second statement in response

In summary Isles FM responded that:

- a) The complainant proved that his news report was inaccurate when he confirmed that "the Mod ship and its financial position" was not in the remit of the tribunal. This proves Isles FM acted correctly in withdrawing the inaccurate item. He conceded that Mr MacSween "repeatedly insisted" that events concerning the ship were evidence to be led at the tribunal while ignoring the fact that Mr MacSween's own legal representatives had confirmed that they were not. The complainant was responsible for an inaccuracy which warranted the item's withdrawal:
 - the complainant, Mr Maclean, scolds Isles FM for not considering what the fax from An Comunn Gaidhealach's solicitors did not say, however Isles FM base and report news mainly on items actually contained in documents rather than wild speculation; and,
 - the Managing Director of Isles FM was shown documentary evidence that the item complained about was inaccurate and took proper steps to stop its re-broadcast.

A letter to the complainant shows that as a result of complaints from a local politician all reports should go to the news editor for his consideration.

No further comments were made to heads (b) to (g).

Mr Maclean's comments on the transcripts supplied by Isles FM

In summary Mr Maclean commented that:

- a) He did not agree that the transcript of the 1630 retraction supplied by Isles FM was correct. The actual output did not say that Mr Angus MacDonald was “also the Chairman of Isles FM” as stated in the transcript.
- b) This omission meant that Isles FM's first broadcast retraction did not disclose to listeners that Mr MacDonald had a conflict of interest, in that he is head of both Isles FM and the organisation referred to in the news item.
- c) He agreed the transcript of the original news item and the other retractions was correct, however noted that Isles FM did not have at least one properly functioning ROT machine.

Isles FM's response to Mr Maclean's comments on the transcripts

In summary Isles FM responded that:

- a)& b) The Directors and Managing Director had nothing further to add to their responses and stood by every word already stated.
- c) The complainant is aware that Isles FM is unable to provide a recording of the broadcast and is engaged in an orchestrated attack on a senior member of Isles FM.

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 unfair treatment in programmes included 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, consistent and targeted only at cases in which action is needed.

As a preliminary matter, the Fairness Committee was extremely concerned that Isles FM was unable to provide a recording of the output to which this complaint relates. This was especially serious given that in this case the transcript of one of the broadcasts was disputed by the complainant and the tone of a broadcast can sometimes be particularly significant in considering a complaint. Having said this, the Fairness Committee considered that the lack of a recording did not prevent it from being able to fairly adjudicate this case on the basis of the agreed transcripts and other material provided by the parties. However, Isles FM's failure to record output will be separately investigated by Ofcom following publication of this adjudication.

In the circumstances of this case Ofcom's Fairness Committee found the following:

- a) In its consideration of whether the broadcast of the retraction was unfair to Mr Maclean, the Fairness Committee first considered, as background to the complaint, the withdrawal of the original news story. This was entirely a matter for Isles FM as no broadcaster is obliged to broadcast or re-broadcast a news story. However broadcasters are obliged to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations.

The Fairness Committee considered that the subsequent retraction was capable of adversely affecting the reputation of Mr Maclean, for reasons outlined below at head (b). Isles FM were, therefore, obliged to take reasonable steps to satisfy themselves that all material facts had been considered before transmitting any retraction and, so far as possible, ensure that such a retraction would be fairly presented. In the event, the retraction was broadcast without any consultation with Mr Maclean and it referred to the whole news piece as being incorrect. In failing to consult Mr Maclean, Isles FM failed to take the necessary steps required by a broadcaster to ensure that unfairness was not caused. The Fairness Committee therefore found that the broadcast of the retraction resulted in unfairness to Mr Maclean in the programmes as broadcast.

In relation to Mr Maclean's subsequent complaint that the 1630 retraction failed to identify Mr MacDonald as the Chairman of Isles FM, the Fairness Committee is unable to form a judgement due to Isles FM's failure to record the output as broadcast. This failure to record output will be separately investigated by Ofcom.

- b) In considering whether the item could adversely affect Mr Maclean's personal and professional reputation and integrity, the Fairness Committee considered the particular context of this complaint. Isles FM broadcasts to a small community in which Mr Maclean could be identified as the author of the news piece by a 'jigsaw effect' - although the news story was not attributed to him, the substance of it had appeared in print locally, together with his by-line. Therefore, taking together these two pieces of the 'jigsaw' (the news piece and the printed article) it would have been possible for listeners to be able to identify Mr Maclean as the author of the news piece. The broadcast retraction's reference to the news story as "incorrect" could have caused his personal and professional reputation and integrity to suffer as a consequence. As a result, the Fairness Committee found that the broadcast retraction caused unfairness to Mr Maclean in the programmes as broadcast.
- c) For the reasons given above at head (a), the Fairness Committee found that Isles FM's failure to consult Mr Maclean before broadcasting the retraction meant that they failed to take the special care required of them and consequently resulted in unfairness to Mr Maclean in the programmes as broadcast.
- d) In its consideration of Mr Maclean's complaint that Isles FM's failure to withdraw the retraction during the evening of 14 March 2005 resulted in unfairness to him, the Fairness Committee examined the transmission of the retraction. Isles FM first broadcast the retraction at 1630 on 14 March 2005 and then re-broadcast it at 1700, 1730 and 1800. The Fairness Committee found that the further broadcasts of the retraction compounded the unfairness to Mr Maclean and consequently resulted in unfairness to him in the programmes as broadcast.
- e) In considering Mr Maclean's complaint that Isles FM's failure to broadcast a correction, explanation and apology to him resulted in unfairness, the Fairness Committee examined the background correspondence between Mr Maclean and Isles FM. The Fairness Committee noted that in a letter dated 21 March 2005, Isles FM referred to their "error of judgement" regarding the retraction. The Managing Director stated:

“While it is true that we take all complaints very seriously, we made an error of judgement when we responded in the afternoon by retracting your news story and making an on-air apology for what we thought must have been an inaccuracy. I now accept that was quite the wrong thing to do without even consulting the parties – especially yourself”.

The Fairness Committee notes that Isles FM now argues that its letter was only an apology to Mr Maclean for not consulting him before the retraction. However, in the Committee’s view, it appears that at the time of writing the letter Isles FM recognised that it had “made an error of judgement...for what we thought must have been an inaccuracy” i.e. it was likely that there may not have been an inaccuracy in the original news item. As discussed above at head (a) Isles FM was fully entitled to withdraw the original news story, however in addition to writing a letter of apology to Mr Maclean, a broadcast apology regarding the retraction would have mitigated the unfairness to him and his reputation.

The ex-BSC Code on Fairness and Privacy (which was the Code in force at the time of broadcast) states that where a broadcaster recognises that a broadcast has been unfair then a correction and apology where appropriate should be broadcast. In Ofcom’s view, Isles FM letter admits that some unfairness had been caused to Mr Maclean. Isles FM’s failure to broadcast a correction and apology to Mr Maclean regarding the broadcast retraction meant that listeners’ impressions would have remained unaltered. This therefore resulted in further unfairness to him in the subsequent programmes as broadcast.

- f) In considering whether Isles FM has failed to justify broadcasting the retraction of the news story, the Fairness Committee noted that whilst Isles FM initially apologised to Mr Maclean for issuing the retraction (see above at head (e)), in its submissions to Ofcom it sought to justify the retraction by virtue of inaccuracy in the original news story. As previously stated at head a), the decision to discontinue a news story is entirely a matter for the broadcaster, however Isles FM has not provided justification for broadcasting a retraction of the news story without consulting Mr Maclean. In Ofcom’s view, Isles FM’s failure to justify broadcasting the retraction compounded the unfairness to Mr Maclean discussed in the above heads of Decision. However such a justification does not form part of the content of a programme, and Isles FM’s failure to provide one did not therefore result in specific unfairness to Mr Maclean in the programme as broadcast.
- g) Mr Maclean complained that the Chairman of Isles FM, Mr Angus MacDonald, was responsible for withdrawing the news piece and that this resulted in unfairness to Mr Maclean.

Ofcom’s Fairness and Privacy remit does not provide for it to consider issues of impartiality or abuse of position. In these circumstances the Fairness Committee considered this element of the complaint in so far as the withdrawal of the item may have resulted in unfairness to Mr Maclean. The Fairness Committee found, as discussed in detail above at Decision head (a), that the withdrawal of the news piece did not result in unfairness to Mr Maclean.

The elements of the complaint concerning the actions of the Chairman of Isles FM will be separately investigated by Ofcom.

Ofcom upheld parts of the complaint of unfair treatment.

Not Upheld

Complaint by Mr Donald John MacSween

Isles FM News, Isles FM, 14 March 2005

Summary: Ofcom has not upheld this complaint of unfair treatment. Mr MacSween complained that he was unfairly treated in the programmes as broadcast. The item was a retraction broadcast on several occasions by Isles FM. Mr MacSween complained that the retraction, which apologised for an earlier news piece featuring him, resulted in unfairness to him. He complained that the retraction, which referred to the original news piece as incorrect, implied he was a liar. He also complained that Isles FM has failed to justify its retraction, resulting in unfairness to him in the programmes as broadcast. Mr MacSween further complained that the Chairman of Isles FM, Angus MacDonald, acted in a manner which abused his position at Isles FM by removing a news story and replacing it with an apology to himself. Isles FM was unable to provide a recording of either the original news item, or the subsequent retraction, due to a failure to record output.

Ofcom concluded that although Mr MacSween was the subject of the news piece, and was thus associated with the retracted item, he was not featured as the source of the news story. The subsequent retraction did not therefore cast doubt on his integrity. Isles FM was entitled to discontinue the news piece and although it would have been good practice for Isles FM to have consulted Mr MacSween before broadcasting a retraction, the broadcast did not result in unfairness to him. In light of this, Ofcom found that Isles FM was not obliged to provide further justification for the broadcast of the retraction.

Ofcom will separately investigate Isles FM's failure to record output and the elements of the complaint relating to the actions of the Chairman of Isles FM.

Introduction

Isles FM is a commercial radio station providing news and information for the Western Isles of Scotland. On 14 March 2005 Isles FM broadcast a news item at 0730, 0800, 0830 and 0900. This item concerned the employment tribunal of the complainant, Mr Donald John MacSween, former chief executive of An Comunn Gaidhealach (a Gaelic development agency). The item announced the further postponement of the employment tribunal, stating that the hearing was likely to be highly critical of An Comunn's president Angus MacDonald. Angus MacDonald is also the Chairman of Isles FM. The item also stated that the legal action would focus on An Comunn's "massive cash deficit" caused by the chartering of a cruise liner needed for extra accommodation during the Royal National Mod (Gaelic Festival). The item was written Mr Murdo Maclean.

No recordings of the news items were made and this failure to record output will be dealt with separately after publication of this adjudication. Transcripts of the news broadcasts, provided by Isles FM, were agreed by Mr MacSween.

On the afternoon of 14 March 2005, at 1630, 1700, 1730 and 1800, Isles FM broadcast a retraction of, and apology for, the news item. According to the Isles FM transcript the retraction stated that: the information contained in the earlier news item was incorrect; and, that neither An Comunn Gaidhealach nor its president Angus MacDonald, who is also the Chairman of Isles FM, were given an opportunity to respond to the item. Isles FM apologised to them unreservedly.

No recordings of the retractions were made and this failure to record output will be dealt with separately. The transcripts of the retractions, of 14 March 2005, were accepted as correct by Mr MacSween with one exception. Mr MacSween disputed the 1630 transcript provided by Isles FM, stating that the broadcast did not include the words "who is also the Chairman of Isles FM".

The Complaint

Mr MacSween's case

In summary, Mr MacSween complained that he was treated unfairly in that:

- a) Isles FM retracted the original, correct news piece concerning his employment tribunal (news of which had also appeared in newspapers and BBC broadcasts), and, referring to the news piece as incorrect, issued an apology to his former boss Mr Angus MacDonald thereby implying that the complainant was, by association, a liar.
- b) Isles FM Chairman, Mr Angus MacDonald, acted in a manner that was not impartial and abused his position at Isles FM, in order to pull a valid news item and replace it with an apology to himself and his organisation An Comunn, thereby causing unfairness to the complainant.
- c) Isles FM apologised to the complainant for the retraction but failed to provide details of, or justification for, the inaccuracies referred to in its retraction.

Isles FM's case

In summary Isles FM responded as follows:

- a) The original news item was not correct or accurate. Correspondence from McGrigor's solicitors and An Comunn Gaidhealach confirm that the tribunal was to be restricted to events after June 2002 and it was therefore misleading for the item to state that "some of the legal action will focus on the massive cash deficit caused...when the Mod was last on Lewis" (which was in 2001). The correspondence confirms that this must have been known by Mr MacSween's representatives. The item also stated that the tribunal had been postponed again when this was the first postponement of the actual hearing. However the Isles FM Managing Director accepted she may have acted hastily and incorrectly in the wording of the broadcast apology/retraction and that a right of reply should have been offered to An Comunn. A letter of apology was sent to Mr MacSween.
- b) As President of An Comunn, Mr Macdonald had the authority to lodge a complaint on its behalf. The immediate withdrawal of an item complained of was in line with current procedure. In the absence of the news editor, the Directors met informally and the Managing Director informed them she had ordered the withdrawal of the item on being satisfied of serious inaccuracy. The Directors were fully aware of Mr Macdonald's dual role but it was not a formal meeting. Mr Macdonald explained why An Comunn believed it was unfairly treated and that the reporter had not contacted him in the interests of balance. The MD then said she would deal with the request for a retraction and apology. The suggestion that Mr Macdonald did anything other than take the complaint from An Comunn to the responsible director is wrong and

scurrilous. The MD was solely responsible for the execution of a remedy to the conflict. She listened to the views of Mr MacDonald as she would to any other complainant and took what she believed to be the appropriate response.

- c) The letter from McGrigors justified the decision for deciding the news item was inaccurate. The MD fully accepted that the retraction and apology were inappropriate as the accepted practice of the station was to offer a right of reply to a complainant in the first instance. The News Editor was absent and it was inappropriate to consult Mr Macdonald who was also a complainer. The other board members and News Editor believe she acted in good faith.

Mr MacSween's comments on Isles FM's response

In summary Mr MacSween commented that:

- a) The broadcaster's response appeared to be factually incorrect and inconsistent with previous correspondence it issued. The letter from McGrigors solicitors did not support the view that the news item was inaccurate for the following reasons:
- the news item accurately referred to the tribunal as "high profile" and the tribunal was high profile in the local context
 - the news item accurately stated that the tribunal "has been postponed again". It was originally scheduled for May 2004, postponed to November 2004 and adjourned to March 2005;
 - the news item's statement that the delay was "unfortunate" for An Comunn as the new hearing date was closer to the staging of the Royal National Mod, was true;
 - the news item expressed the view that the hearing would be "embarrassing" for An Comunn, which was the opinion of the reporter and now impossible to establish as An Comunn decided to settle Mr MacSween's claim out of court. This opinion was in accordance with accepted journalistic practice;
 - the news item advised that "it", presumably the tribunal, would be highly critical of An Comunn president Mr Angus Macdonald; this was certainly the intention of Mr MacSween's solicitors. This is supported by An Comunn's decision to settle and the opinion of the reporter could not justify the broadcaster's subsequent actions;
 - the news item stated that some of the legal action would "focus on the massive cash deficit caused by chartering a cruise liner to stave off an accommodation crisis when the Mod was last on Lewis". In doing so the reporter correctly reported Mr MacSween's opinion; and,
 - the news item mentioned that there "is a similar lack of bed-space for the visiting crowds but proposals to get hold of another ship are still unconfirmed". This is a matter of fact and the report simply advised of unconfirmed reports.
- b) Mr MacDonald did not act impartially and abused his position at Isles FM in order to have the news item withdrawn and replaced with an apology to himself

and his organisation.

It was accepted by the broadcaster that Mr MacDonald phoned Isles FM to ask for the immediate withdrawal of the report and this was done. The broadcaster did not follow established broadcasting practice in offering An Comunn the opportunity to respond publicly to the report. Mr MacDonald, as complainer, should not have participated in the meeting of directors. Mr MacDonald did not, and could not, take such action with other media bodies which published almost identical reports. Mr MacDonald is unable to separate feelings of personal antagonism towards the complainant from his professional duties to Isles FM.

- c) The Managing Director should have allowed herself time to consult the news Editor before deciding to uphold the complaint within one hour of it being made. Where an individual (Mr MacDonald) exercises personal power to unduly influence the reporting of the news, the whole principle of operation of the fourth estate is brought under attack.

Isles FM's second statement in response

In summary Isles FM responded that:

- a) The news item contained a gross and possibly deliberate inaccuracy, as confirmed by the letter from McGrigor's which merited its complete withdrawal:
- the McGrigor's letter was made known to the Managing Director when she asked An Comunn for evidence of the inaccuracy they were alleging, and was the entire basis for her action; and,
 - the complainer's claim that it was his intention to raise matters outside the remit of the tribunal is irrelevant and scurrilous.
- b) The complainer tries to make unfounded allegations against the Chairman of the station when in fact normal procedure was followed. It was policy to withdraw the news item as the news editor could not be contacted.
- c) The complainant's other comments in relation to the news items accuracies are irrelevant for the reasons stated above. It was policy to withdraw the news item as the news editor could not be contacted.

Mr MacSween's comments on the transcripts supplied by Isles FM

In summary Mr MacSween commented that he did not agree the transcript of the 1630 retraction supplied by Isles FM. He, and his wife, recall that the 1630 retraction did not state that Mr Macdonald was also the Chairman of Isles FM. He further stated that a different version of the broadcast apology was supplied to his wife.

Isles FM's response to Mr MacSween's comments on the transcripts

In summary Isles FM responded that the Directors and Managing Director had nothing further to add to their responses and stand by every word already stated. Further, the complainant is aware that Isles FM is unable to provide a recording of the broadcast and he is engaged in an orchestrated attack on a senior member of Isles FM.

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 unfair treatment in programmes included 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, consistent and targeted only at cases in which action is needed.

As a preliminary matter, the Fairness Committee was extremely concerned that Isles FM was unable to provide a recording of the output to which this complaint relates. This was especially serious given that in this case the transcript of one of the broadcasts was disputed by Mr MacSween and the tone of a broadcast can sometimes be particularly significant in considering a complaint. Having said this, the Fairness Committee considered that the lack of a recording did not prevent it from being able to fairly adjudicate this case on the basis of the agreed transcripts and other material provided by the parties. However, Isles FM's failure to record output will be separately investigated by Ofcom following publication of this adjudication.

In the circumstances of this case Ofcom's Fairness Committee found the following:

- a) In its consideration of whether the broadcast of the retraction was unfair to Mr MacSween, the Fairness Committee first considered the withdrawal of the original news story. This was entirely a matter for Isles FM as no broadcaster is obliged to broadcast or re-broadcast a news story. However broadcasters are obliged to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations.

The Fairness Committee next considered whether the broadcast retraction, which referred to the original news story as "incorrect", was capable of adversely affecting the reputation of Mr MacSween.

The Fairness Committee noted that Mr MacSween was the subject of the original news story and in that respect was associated both with it and with the retraction broadcast subsequently. In noting this, the Fairness Committee was mindful that in small communities such as the community served by Isles FM people are known and more readily identified with events. In the opinion of the Fairness Committee it would have been good practice for Isles FM to have taken particular care in broadcasting the retraction of the news story, and to have consulted Mr MacSween before doing so.

The Fairness Committee went on to consider whether it was possible from the context of the original news report to determine in some way that Mr MacSween was associated with the actual content and its sourcing, referred to in the subsequent broadcast retraction as "incorrect", as opposed to being the subject of the original news report. In answer to this question, the Fairness Committee concluded that the news report did not actually link Mr MacSween to any of the comments made in it, nor did it provide any grounds for concluding that Mr MacSween was connected with the sourcing of the news report.

This being the case, the Committee found that neither the withdrawal of the report, nor the subsequent broadcast retraction, cast doubt on Mr MacSween's integrity and consequently no unfairness to him resulted in the programmes as broadcast.

In relation to Mr Maclean's subsequent complaint that the 1630 retraction failed to identify Mr MacDonald as the Chairman of Isles FM, the Fairness Committee was unable to form a judgement due to Isles FM's failure to record output. As noted above this failure to record output will be separately investigated by Ofcom.

- b) Mr MacSween complained that the Chairman of Isles FM, Mr Angus MacDonald, was responsible for withdrawing the news piece, and replacing it with an apology to himself and his organisation An Comunn, and that this resulted in unfairness to Mr MacSween.

Ofcom's Fairness and Privacy remit does not provide for it to consider issues of impartiality or abuse of position. The Fairness Committee was therefore only able to consider this element of the complaint in so far as the withdrawal of the item, and the issuing of the retraction, may have resulted in unfairness to Mr MacSween. The Fairness Committee found, as discussed in detail above at Decision head (a), that neither the withdrawal of the news piece nor the subsequent retraction resulted in unfairness to Mr MacSween.

The complaint concerning the actions of the Chairman of Isles FM will be separately investigated by Ofcom.

- c) In considering whether Isles FM has failed to justify broadcasting the retraction of the news story, the Fairness Committee noted that Isles FM initially apologised to Mr MacSween for issuing the retraction, in a letter of 21 March 2005. As discussed above at Decision head (a), it would have been good practice for Isles FM to have consulted Mr MacSween before broadcasting a retraction. However, given the above finding at Decision head (a), namely that the retraction did not result in unfairness to Mr MacSween, the Fairness Committee found that Isles FM was not obliged to provide further justification for its retraction and this did not result in unfairness to Mr MacSween in the programmes as broadcast.

Ofcom did not uphold the complaint of unfair treatment.

Complaint by Mr Christopher Elliot on behalf of the Guild of Taxidermists

Taxidermy: Stuff the World, BBC1 and BBC2, 6 September 2005 and 22 August 2005

Summary: Ofcom has not upheld this complaint of unfair treatment made by Mr Christopher Elliot on behalf of the Guild of Taxidermists (the Guild). The Guild participated in the programme *Taxidermy: Stuff the World* which documented the work of several taxidermists from around the world as they prepared to compete in the 2005 World Taxidermy Championships. The Guild complained that: relevant information and footage was not included in the programme; the programme referred to taxidermy as “stuffing”, the programme portrayed the Guild as a “sad bunch”; and, the programme unfairly associated UK taxidermists with the work of American taxidermists.

Ofcom found the following:

- a) There was no case of unfairness to answer in relation to the allegation that “the programme was a poor representation of taxidermy in the UK” as there was no obligation on programme makers to represent, taxidermy in the UK, within the programme.
- b) The programme’s use of the term “stuff” did not result in unfairness to the Guild. Ofcom concluded that the use of the term “stuff” by programme makers was warranted to increase audience understanding of the content of the programme. Further, Ofcom noted that there was no evidence to suggest that programme makers had given the Guild any assurances that they would not use the term “stuff”.
- c) The programme makers’ decision to not include footage of winning UK taxidermists did not result in unfairness to the Guild as programme makers were under no explicit obligation to include winning footage of UK taxidermists, nor was the footage required to meet their stated objective for the film.
- d) The programme makers’ decision to not use footage of Mr Carl Church, a Guild member, in the programme as broadcast did not result in unfairness to Mr Church or the Guild. Ofcom found no evidence that programme makers told the Guild or Mr Church that Mr Church would be the main subject of the programme or that his inclusion was guaranteed. Further, the release form signed by Mr Church gave permission for the programme makers to use and edit footage of him as they wished.
- e) Programme makers were under no obligation to include information specific to the “art of taxidermy in the UK”. However, programme makers did successfully meet the objective of the film as stated to the Guild of documenting the “art” of taxidermy in general. Ofcom found no unfairness to the Guild in this respect.
- f) There was no obligation for programme makers to include information about the Guild relating to the intricacies of taxidermy, or the guidelines adhered to by the Guild, when collecting animal specimens. As such, Ofcom found no unfairness to the Guild in this respect.

- g) The programme's portrayal of the Guild's UK Conference was fair. Ofcom was satisfied that the footage of the Conference was fairly edited, and accurately juxtaposed the UK Conference against the bigger and much more competitive World Championships. Ofcom found that it would have been unlikely that viewers would have formed an unfair or negative impression of the Guild based on the footage taken from the UK Conference.
- h) Ofcom found that the programme did not unfairly associate UK taxidermists with other taxidermists from America. Ofcom concluded that the measures taken by programme makers, to separate and contrast the views of the featured taxidermists, were sufficient to ensure that the opinions of those participants were clearly and accurately reflected. Ofcom found that it was likely that the views of any particular featured taxidermist would not have affected the viewer's opinion of other featured taxidermists or the Guild.

The complaint of unfair treatment was not upheld.

Introduction

Taxidermy: Stuff the World, documented the work of several taxidermists as they prepared to compete in the 2005 World Taxidermy Championships. Subjects in the documentary were drawn from Canada, Denmark, the United States of America, Switzerland and the United Kingdom. The Guild of Taxidermists ("the Guild") was referred to in the programme. The programme included footage from the 2004 UK Guild of Taxidermist Conference and interviews with Mr Jack Fishwick, a Guild member.

Mr Christopher Elliot (who was not featured in the programme) complained on behalf of the Guild that they were treated unfairly in the programme as broadcast.

The Complaint

The Guild's case

In summary Mr Elliot complained on behalf of the Guild that the Guild was treated unfairly in the programme as broadcast in that:

- a) the programme was a very poor representation of taxidermy in the UK;
- b) the programme referred to the art of taxidermy as "stuffing". Mr Elliot said the words "stuffed" or "stuffing" were not used by the Guild and the use of the word in the title immediately demeaned the work of taxidermy;
- c) the programme failed to include relevant footage of award winning UK taxidermists;
- d) the programme makers told the Guild that the main subject of the documentary would be Carl Church, a Guild member, who was not included in the documentary. Mr Elliot stated that: the programme makers had filmed Mr Church endlessly; and, the programme's Director had advised Mr Church that the reason he would not be featured (as programme makers advised the Guild) in the programme was because they were all "too normal";
- e) the programme makers told them that the "art" of UK taxidermists would be documented, which was not the case;

- f) the programme failed to include relevant information provided to them by the Guild relating to the intricacies of taxidermy and the Guild's guidelines when collecting animal specimens. Mr Elliot explained that the Guild is careful to ensure all their animal specimens are legally obtained and many specimens are provided from road kill;
- g) the programme included footage of the Guild at their annual Conference. Mr Elliott complained the programme portrayed the Guild as a "sad bunch"; and,
- h) the programme unfairly associated UK taxidermists with the work of the American taxidermists. Mr Elliot complained that the Guild had been "lumped together" with the Americans who were "killing for the sake of it".

The BBC's case

In summary the BBC responded as follows:

- a) In response to the complaint that the programme was a poor representation of taxidermy in the UK the BBC said the programme was not intended to focus on taxidermy in the UK. The intention for the programme was to follow taxidermists from all over the world as they prepared for the World Taxidermy Championships 2005. A letter to Mr Church from the associate producer indicated this intention.

The amount of Guild footage filmed in comparison to the amount of footage used in the programme was in line with the film making style used by the programme's Director. The BBC explained that the programme's Director's films have a high ratio of filmed footage to final product. For this film, he filmed over 160 hours to make a 90 minutes documentary. The BBC noted that the Guild members whose work had been filmed by programme makers (Mr Fishwick and Mr Church) had been overwhelmingly positive about the film after transmission.

- b) The BBC agreed that the term "stuff" had been used, but refuted that it was used in an unfair way. The word "stuff" or "stuffing" was used twice in the entire documentary: in the title and in an early caption.

The BBC said that no suggestion was made to the complainants that the production team would abide by their preferred terminology. Further, the use of the term was warranted, to increase viewer understanding of the programme. By including the term "stuff" in the title, those viewers unfamiliar with taxidermy would gain some understanding of what the programme would contain.

- c) In relation to the programme's alleged failure to include relevant footage of award-winning UK taxidermists, the BBC said that programme makers never gave assurances to include any of the people who won, in any of the numerous categories at the 2005 show. It was not the intention of the programme makers to focus on winning taxidermists, as was evidenced by the individuals finally chosen to feature in the programme. The BBC explained it was not just UK taxidermists who had not featured at the "winning moment"; there were numerous other taxidermists from around the world who were similarly not included.
- d) The programme makers refuted that the Guild was told or that it was implied

that Mr Carl Church would be “the main subject of the programme”. As previously noted, programme makers wrote to Mr Church and detailed that the intention of the programme was to follow taxidermists from all over the world as they prepared for the World Taxidermy Championships 2005. The BBC also provided a release form signed by Mr Church which allowed the programme makers to use and edit his recorded contribution as they wished.

The BBC said that Mr Church was not filmed “endlessly” as claimed by Mr Elliot. Apart from footage taken at the UK conference and Championships, Mr Church was filmed during one evening and a day. One of the main reasons Mr Church’s contribution had not been included in the final programme was because the Director felt that he had not filmed enough material to enable them to provide a satisfactory narrative.

The BBC said programme makers had contacted Mr Church about the allegation that the programme’s Director said Mr Church was “too normal” to be included in the final programme. Mr Church told programme makers that the Director had not said this to him, but that the confusion may have arisen as he himself said to Mr Elliot that he thought he was “probably too normal” for the programme. Programme makers said Mr Church had been very positive about the film during this and other conversations with the production team.

- e) There was no intention for the programme to specifically focus on the “art” of UK taxidermy. The letter from programme makers to Mr Church clearly outlined the intention of the film which was to, to follow a group of taxidermists from around the world, looking at “the art, the techniques, the culture and the traditions around taxidermy”, exploring issues such as the “relationship with the natural world” the cultural differences between taxidermists from different countries and the dedication necessary for participation in competitive taxidermy.
- f) In response to the complaint that ‘the programme failed to include relevant information provided by the Guild about the intricacies of taxidermy and the Guild’s guidelines when collecting animal specimens’, the BBC said that programme makers never advised the complainant that such information would be included as it was never the intention of the programme to focus on the Guild itself.

However, the BBC noted that the programme makers did include footage of Mr Fishwick, explaining that: because of the number of robins dying of natural causes, it was not necessary for taxidermists to kill animals to obtain specimens. The BBC said these sentiments appeared to be in line with the Guild’s point that: many of their members obtained specimens from road kill, therefore negating the need to kill animals specifically for the purposes of taxidermy. In response to Mr Elliot’s statement that the Guild obtain all animal specimens legally, the programme makers confirmed that all the animals shown in the programme were legally obtained and the film never suggested otherwise.

- g) In relation to the complaint that the programme portrayed the Guild as a “sad bunch”, the BBC said the footage taken from the Guild of Taxidermists’ Conference amounted to less than two minutes, of which there was a strong emphasis on Mr Fishwick. It was clear that comments made by Mr Fishwick regarding the Guild were his personal views and not those of the programme makers. Mr Fishwick appeared entirely in his own right and was not a

representative of the Guild.

- h) The BBC said that the programme made no direct connection between American and British taxidermy in terms of hunting. Indeed the European contributors positively disassociated themselves from such activities. The Europeans as a whole were portrayed as distinct from their American counterparts, and as having very different attitudes to such matters. The Europeans featured all referred to their aversion to killing living beings.

The BBC maintained that the inclusion of the American stories and their focus on hunting was warranted. The BBC highlighted that there are over 50,000 practising taxidermists in the USA and that the majority of taxidermy work in America was performed with animals obtained through hunting. The BBC said that as the Americans dominate not only the world market but also the World Championships, it was natural that their presence was strongly represented in the film.

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 unfair treatment in programmes included 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 the circumstances of this case Ofcom found the following:

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.

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

- a) The Guild complained that the programme was a poor representation of taxidermy in the UK. In considering this complaint Ofcom sought to understand firstly if there was an onus on the programme makers to ensure that taxidermy in the UK was represented, and secondly, if Ofcom was satisfied that there had been such an obligation, whether programme makers had abided by it.

After considering the information presented from both parties Ofcom found that there was no case of unfairness to answer in relation to the allegation that "the programme was a poor representation of taxidermy in the UK" as there was no obligation on programme makers to represent taxidermy in the UK, within the programme. In coming to this conclusion, Ofcom took the following into consideration:

Ofcom noted that the programme clearly set out to tell the stories of a number of individual taxidermists (from different countries), as they prepared to compete in the World Taxidermy Championships 2005. Ofcom further noted that programme makers explicitly set out the film's objective in correspondence to one of the UK Guild members. In a letter dated 4 August 2004, programme makers clearly stated to Mr Church that they were:

"making a feature length documentary film following a number of taxidermists from all over the world in the run up to the world show. The idea is to explore through the taxidermist and their work, the art, the techniques, the culture and the traditions around taxidermy. We are interested in all the themes this throws up – our relationship with the natural world, the cultural differences between taxidermy in different parts of the world and the dedication that goes with competitive taxidermy".

It is Ofcom's opinion that programme makers made clear to participants (and viewers) that the programme would be a documentary about taxidermy, as told through personal stories, not a documentary about UK Taxidermy. Further,

there was no evidence to suggest that such an agreement was made between programme makers and the Guild to specifically represent UK Taxidermy. Ofcom therefore found no unfairness to the Guild in this respect.

- b) In relation to the programme's use of the word "stuffing" and "stuff" to describe the process of taxidermy, Ofcom found that the rare use of the term "stuff" by programme makers was warranted to increase audience understanding of the content of the programme. Ofcom considered that it was reasonable for programme makers to assume that audience understanding of the term "taxidermy" would be increased when coupled with the term "stuff" and "stuffing". Ofcom did not believe viewers would have formed an unfair impression of taxidermy, taxidermists or the Guild as a result of the term "stuff" being used in the programme. Notwithstanding the above finding, Ofcom also noted that there was no evidence to suggest that programme makers had given the Guild any assurances that they would not use the term "stuff".
- c) The Guild complained of unfair treatment in that the "programme failed to include relevant footage of the award winning UK taxidermists". In reaching a finding Ofcom considered whether: there had been existing agreement between the Guild and programme makers to include such footage; and/or, the footage was necessary for the film to fulfil the objectives as given to the Guild when seeking their participation in the film. In both respects, Ofcom found that programme makers were under no obligation to include footage of award winning UK taxidermists.

Ofcom found that there was no evidence to suggest that programme makers would include footage of award winning UK taxidermists. Secondly, Ofcom was satisfied that, programme makers made it clear in correspondence with a Mr Church that the objective of the film was to follow the stories of a number of taxidermists from around the world, as they prepared to compete in the World Taxidermy Championships. It is Ofcom's opinion that the personal stories told in the documentary were the focus of the programme, not necessarily the winners of the World Championships. Ofcom concluded the programme makers' decision to not include footage of winning UK taxidermists did not result in unfairness to the Guild as programme makers were under no explicit obligation to include winning footage of UK taxidermists, nor was the footage required to meet their stated objective for the programme.

- d) In regard to the complaint that "programme makers told the Guild that the main subject of the programme would be Mr Church, who was not included in the film", Ofcom has found no evidence that programme makers told the Guild or Mr Church that he would be the main subject of the programme or that his inclusion was guaranteed. In coming to this decision, Ofcom reviewed correspondence between Mr Church and programme makers. Ofcom considered that the letter sent to Mr Church from programme makers did not constitute an agreement to feature or necessarily include Mr Church in the final programme. Rather it was a letter of introduction from programme makers outlining the aims of the programme (see (a)) with a view to film Mr Church's work some time in the future:

"The work that you are doing for the WTC sounds really interesting and I would love for us to be able to come and do some filming with you."

Ofcom also noted that the release form signed by Mr Church gave permission

for the programme makers to use and edit footage of Mr Church as they wished. Based on the information available, Ofcom found that the programme makers' decision not to use footage of Mr Church in the programme as broadcast did not result in unfair to Mr Church or the Guild.

- e) It did not appear to Ofcom that the programme makers advised the Guild that the "art" of UK taxidermy would be documented. It is Ofcom's opinion that the programme makers made clear what the objective of the programme would be, in correspondence with Mr Church. Ofcom found that the objectives stated in this letter did not include the documentation of the "art of taxidermy in the UK", rather the programme would aim to explore the "art" of taxidermy in general, as told through personal stories of taxidermists in the lead up to them competing in the World Championships. Ofcom considered that sufficient information was provided about the process of taxidermy within the programme, for the programme makers to have successfully met the stated objective of providing information about the "art" of taxidermy in general. Ofcom concluded that the programme makers were under no obligation to include information specific to the "art of taxidermy in the UK" however, programme makers did successfully meet the objective of the film as stated to the Guild of documenting the "art" of taxidermy in general. Ofcom therefore found no unfairness to the Guild in this respect.
- f) Ofcom found there was no obligation for programme makers to include information about the Guild, relating to the intricacies of taxidermy, or the guideline's adhered to by the Guild when collecting animal specimens. As stated above, Ofcom did not consider that the programme makers advised the Guild that either the Guild or taxidermy in the UK would be the focus of the programme. Ofcom found no evidence to suggest that there was an agreement between programme makers and the Guild to include such information provided by them. Ofcom therefore found no unfairness to the Guild in this respect.

Nevertheless, after reviewing the programme, Ofcom noted that the programme included relevant information about the collecting of animal specimens and the intricacies of taxidermy. In particular, the programme included the following statement by Jack Fishwick about collecting animal specimens:

"People think that taxidermists actually go out there and kill these birds...but the reality is there are millions of robins dying throughout Europe each year naturally. So there's no need for taxidermist to go out there shooting, killing, maiming, because there are so, so many natural causes for a robin to die".

Ofcom considered that within the confines of a 90 minute documentary the number of details included about what is required to compete successfully in taxidermy were sufficient for viewers to have grasped a finer understanding of the process of taxidermy in general.

- g) When a programme is edited, broadcasters should take care to ensure contributions are represented fairly. In the circumstances of this case, Ofcom found that the inclusion of footage taken from the Guild's UK Conference portrayed the Guild in a fair way. In coming to this conclusion, Ofcom noted that the footage was filmed in a passive manner and was not staged in any way. Further, Ofcom considered that viewers would have clearly understood that the

footage had been included in relation to Mr Fishwick's personal views about his experiences of competing at both the UK Conference and the World Championships. Ofcom was satisfied that the footage of the Conference was fairly edited and accurately juxtaposed the UK Conference against the bigger and much more competitive World Championships. Ofcom found that it would have been unlikely that viewers would have formed an unfair impression of the Guild based on the footage taken from the UK Conference.

- h) Ofcom found that the programme did not unfairly associate UK taxidermists with taxidermists from America. Ofcom noted that in the programme, care had been taken by the programme makers to clearly separate the primary participants by the inclusion of individual introductions and continued titling. It is Ofcom's opinion that these measures were sufficient to ensure that viewers were not only made aware of where the participants originated from but also allowed viewers to accurately compare and contrast the work of taxidermists from different countries.

In relation to the specific complaint made by Mr Elliot that the programme "lumped" UK taxidermists with the American taxidermists who were "killing for the sake of it", Ofcom did not agree. It is Ofcom's opinion that the programme showed a rounded view of each participant's approach to taxidermy, including the views of the Mr Fishwick, the UK participant. Ofcom noted that Mr Fishwick's views on killing animals for the specific use of taxidermy were included in the programme. Ofcom was satisfied that viewers would have understood what each participant's views were with regards to acquiring animal specimens for taxidermy.

Ofcom concluded that the measures taken by the programme makers, to separate and contrast the views of the featured taxidermists, were sufficient to ensure that the opinions of those participants were clearly and accurately reflected. Ofcom found that it was likely that the views of any particular featured taxidermist would not have affected the viewer's opinion of other featured taxidermists or the Guild.

The complaint of unfair treatment was not upheld.

Complaint by Mr Richard Ruddle on his own behalf and on behalf of Ms Debbie Milne

The Curse of Friends Reunited, Five, 23 February 2004

Summary: Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy. This documentary, broadcast on 23 February 2004, was an edited version of a documentary first broadcast on 8 September 2003. The programme examined how the website Friends Reunited had, allegedly, detrimentally affected the lives of a number of individuals. The programme included an item dealing with Mrs Angela Ruddle who claimed that her life had been devastated by Friends Reunited. Mrs Ruddle explained in the programme how her estranged husband, Mr Richard Ruddle, had contacted a former girlfriend, Ms Debbie Milne, through Friends Reunited. Mr Ruddle and Ms Milne complained that the programme was factually incorrect; questioned his character and moral judgement; and, failed to give them an opportunity to respond to the claims made in the programme. Mr Ruddle and Ms Milne also complained that their privacy was unwarrantably infringed.

Ofcom found as follows:

- a) Ofcom was satisfied that the programme did not expressly state that Friends Reunited was responsible for the breakdown of Mr Ruddle's marriage and the programme's presentation of this matter was unlikely to have material affected viewers understanding of the events in a way that was unfair to Mr Ruddle.
- b) Ofcom was satisfied that the programme did not seek to question Mr Ruddle's character or moral judgement and it was unlikely that viewers would have thought that Mr Ruddle was a "bad person" as a result of the programme's presentation of events.
- c) Ofcom considered that the programme-makers had taken reasonable steps to ensure that all the material facts had been considered and so far as possible fairly presented in the programme as broadcast. It was also clear that the views expressed in the programme were Mrs Ruddle's alone and, in the absence of any information to the contrary from Mr Ruddle, it was reasonable for the programme-makers to assume that the description of the events and his past relationships was correct.
- d) Ofcom considered that Mr Ruddle and Ms Milne were given an adequate and timely opportunity to contribute to the programme.
- e) In the particular circumstances, it was reasonable for the programme-makers to conclude that Mr Ruddle was not concerned about the inclusion of photographs of him and as such the inclusion of them did not unwarrantably infringe his privacy.

Ofcom considered that, as Mr Ruddle did not live in the house and the footage of the interior of the house did not include anything that could be construed as personal information particular to Mr Ruddle, the inclusion of the footage did not infringe Mr Ruddle's privacy.

Ofcom recognised that Mr Ruddle was concerned not to have matters relating to his private and family life publicly discussed. However, given that the personal information about Mr Ruddle and Ms Milne in the programme

was already in the public domain and neither Mr Ruddle or Ms Milne had expressed concern about the disclosure of the information, its inclusion in the programme did not unwarrantably infringe their privacy.

Introduction

This documentary, broadcast on 23 February 2004 (“the programme”), was an edited version of a documentary first broadcast on 8 September 2003. The programme examined how the website *Friends Reunited* had, allegedly, detrimentally affected the lives of a number of individuals. The programme included an item dealing with Mrs Angela Ruddle who claimed that her life had been devastated by *Friends Reunited*. Mrs Ruddle explained in the programme how her estranged husband, Mr Richard Ruddle, had contacted a former girlfriend, Ms Debbie Milne, through *Friends Reunited*. The programme referred to Mr Ruddle by name and included footage of still photographs of him and reconstructed footage of him using an actor. The programme also referred to Ms Milne as “Debbie”.

Mr Ruddle complained on his own behalf and on behalf of Ms Milne to Ofcom that they were treated unfairly in the programme and that their privacy was unwarrantably infringed in the both the making and broadcast of it.

The Complaint

Mr Ruddle’s case

In summary, Mr Ruddle complained that:

- a) The programme wrongly declared that *Friends Reunited* was responsible for the breakdown of his marriage. Mr Ruddle said that both he and Ms Milne had known how to contact each other, if they had wished, prior to joining the website.
- b) The programme questioned his character and moral judgement based on false information.
- c) The description of events and of Mr Ruddle's past relationships given in the programme by Mrs Ruddle were incorrect.
- d) The programme-makers failed to offer either Mr Ruddle or Ms Milne an opportunity to respond to Mrs Ruddle’s comments.
- e) The programme infringed Mr Ruddle’s and Ms Milne’s privacy in both the making and broadcast of the programme. Mr Ruddle said that the programme-makers obtained and broadcast personal photographs of him without his consent; that it included footage of the interior and exterior of his house (occupied by Mrs Ruddle); and, that the programme revealed personal information about them and private family details.

Five’s case

In summary, Five responded that:

- a) The programme did not declare that *Friends Reunited* was responsible for the breakdown of Mr Ruddle's marriage. Mrs Ruddle clearly explained in the programme that “*Friends Reunited* has devastated [her] life” and set out the

facts of her break up with Mr Ruddle. There was no suggestion that the Friends Reunited website was the cause of the breakdown.

- b) The programme did not question Mr Ruddle's character or moral judgement.
- c) Mrs Ruddle's version of events was clearly given in the programme and Mr Ruddle failed to respond to the programme-makers request to participate in the original broadcast of the programme on 8 September 2003 or to comment on Mrs Ruddle's story. Since Mr Ruddle made no attempt to correct or comment on the description of events after this original broadcast, Five said that it was entitled to assume that the description given by Mrs Ruddle was true. Mr Ruddle submitted no evidence to suggest how Mrs Ruddle's account in the programme was incorrect.
- d) Both Mr Ruddle and Ms Milne were contacted by the programme-makers at different times during 2003 and before the original broadcast of the programme on 8 September 2003 inviting them to participate or comment on Mrs Ruddle's version of events. Ms Milne made it clear to the programme-makers that she did not wish to participate in the programme and although the programme's producer left several telephone messages for Mr Ruddle, he did not respond. A further attempt to contact them by letter at their new address was made, but again no response was received. The programme-makers were satisfied that Mr Ruddle and Ms Milne had received the invitation to take part or comment, as Mrs Ruddle told them that Mr Ruddle had called her after being contacted by the programme-makers.
- e) The mere publication of a photograph did not infringe a person's privacy. Only if the content of the photograph was of a private nature or the context in which it was used had some confidential or sensitive element could it be claimed that the photograph was private.

Five said that the photographic image of Mr Ruddle was not private; neither were the content of the photographs themselves, nor the context in which they were used. The photographs of Mr Ruddle were already in the public domain in that some had appeared in the printed media and had appeared in the first broadcast of the programme on 8 September 2003.

Further, the programme did not contain any footage of the exterior of the property and Mrs Ruddle, as the occupier, gave permission for the programme-makers to film inside the house. Mr Ruddle was no longer living there at the time of filming and these images also appeared in the first broadcast of the programme.

Five said that the personal information and family details to which Mr Ruddle referred was already in the public domain in that some of it had already been published in the printed media and on another television programme, *GMTV*. In these circumstances, and given that all the information was either not private or already in the public domain, Mr Ruddle's and Ms Milne's privacy was not infringed in either the making or broadcast of the programme.

Mr Ruddle's comments

In summary, Mr Ruddle responded that:

- a) Five were "playing with words" and that the programme not only mentioned that Friends Reunited was responsible for the marriage breakdown but also inferred it by the fact that Mrs Ruddle was included in a programme called The Curse of Friends Reunited.
- b) The programme did call his character and moral judgement into question as it made him look like a bad person. However, nothing was mentioned about Mrs Ruddle's behaviour towards him during their relationship.
- c) Mr Ruddle explained that there were a number of reasons why neither he nor Ms Milne responded to the programme-maker's invitations to contribute. He said that the programme-makers had not left contact details with their messages and that Ms Milne was receiving hospital treatment at the time and so had to decline the invitations.
- d) Neither Mr Ruddle nor Ms Milne wanted to contribute to a programme, the full content of which was unknown to them.
- e) The photographs were private and were used without his permission. Also Mr Ruddle said that his complaint concerned the use of the photographs generally, including the original broadcast, and not just in the programme. Also, the programme did show the exterior of the property and that as he was joint owner with Mrs Ruddle his consent should have been sought by the programme-makers. Mr Ruddle also said that the programme did contain personal information and family details.

Five's comments

In summary, Five said that it had nothing further to add to its first statement in response and maintained that:

- a) The programme did not state that the Friends Reunited website was responsible for the breakdown of Mr Ruddle's marriage to Mrs Ruddle.
- b) The programme did not question his character or moral judgement.
- c) Mr Ruddle had failed to explain how the programme's description was incorrect.
- d) The programme-makers had invited both Mr Ruddle and Ms Milne to participate in the programme or comment on Mrs Ruddle's account, but Mr Ruddle and Ms Milne had declined the offer.
- e) No footage of the exterior of the house was shown. Given that Mr Ruddle no longer lived there, Five said that his privacy was not infringed. Also, the repeated programme only included information and images that were already in the public domain.

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 unfair treatment in programmes included 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 this case Ofcom found the following:

- a) Ofcom accepted Mr Ruddle's claim that both he and Ms Milne had known how to contact each other, if they had wished, prior to joining Friends Reunited. However, Ofcom was satisfied, having examined the transcript of the programme, that the programme did not expressly state that Friends Reunited was responsible for the breakdown of Mr Ruddle's marriage.

In our view, viewers were likely to have believed that Friends Reunited played a role in the breakdown of their marriage given Mrs Ruddle's comments that "Friends Reunited has devastated [her] life" when recounting the breakdown. However, it was unlikely to have materially affected viewers' understanding of the events in a way that was unfair to Mr Ruddle. It would have been likely to have been clear to viewers that this was Mrs Ruddle's version of events and it was legitimate for the programme to allow Mrs Ruddle to explain how she believed Friends Reunited had affected her own life. Ofcom found no unfairness to Mr Ruddle in this respect.

- b) Ofcom noted that Mr Ruddle did not specify in his written submissions exactly how he believed that the programme had questioned his character and moral judgment although it was clear that he believed that the programme portrayed him as a "bad person" and failed to explain Mrs Ruddle's own role in their break up.

Ofcom was satisfied that the programme did not seek to question Mr Ruddle's character or moral judgement and it was unlikely that viewers would have thought that Mr Ruddle was a "bad person" as a result of the programme's presentation of events. It would have been clear that the programme did not aim to examine the full causes for the breakdown of their marriage and (as stated above) that this was Mrs Ruddle's version of events only. Ofcom also noted that the programme-makers had taken reasonable steps to ensure that Mr Ruddle's actions were presented fairly by seeking to contact Mr Ruddle and Ms Milne before the original broadcast of the programme to invite them to participate or comment on Mrs Ruddle's version of events (see finding (d) below for more details). Ofcom found no unfairness to Mr Ruddle in this respect.

- c) Ofcom noted that Mr Ruddle did not specify in his written submissions how the programme's description of events and his past relationships were incorrect or why it was unfair to him; nor did he provide further explanation when requested.

It also noted that the programme-makers had invited Mr Ruddle and Ms Milne to participate in the programme prior to the original broadcast (see finding (d) below for more details). Further, Mr Ruddle did not seek to correct or comment

on the content of the programme after the original broadcast and before this programme. Although Mr Ruddle had requested certain personal information about his family to be removed he did not raise or object to the other content relating to him. In these circumstances, Ofcom considered that the programme-makers had taken reasonable steps to ensure that all the material facts had been considered and so far as possible fairly presented in the programme as broadcast. It was also clear that the views expressed in the programme were Mrs Ruddle's alone and, in the absence of any information to the contrary from Mr Ruddle, it was reasonable for the programme-makers to assume that the description of the events and his past relationships was fair. Ofcom therefore found no unfairness in this respect.

- d) Ofcom considered that Mr Ruddle and Ms Milne were given an adequate and timely opportunity to contribute to the programme. It was clear from the evidence submitted to Ofcom that the programme-makers had taken reasonable steps to contact Mr Ruddle and Ms Milne before the first broadcast of the programme to invite them to participate or comment on Mrs Ruddle's version of events. It was a matter for Mr Ruddle and Ms Milne whether or not they wished to participate in the programme or comment on its content. Ofcom found no unfairness in this respect.
- e) In Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

Ofcom considered Mr Ruddle's complaint that the programme included still photographs of him without his consent. Ofcom took the view that, although the photographs were not particularly sensitive or embarrassing, given their personal nature it was reasonable for Mr Ruddle to have assumed that they would not be disclosed to such a wide audience. However, Ofcom noted that the same photographs had been included in the original broadcast of the programme and Mr Ruddle had not registered any displeasure to the programme-makers or broadcaster after the original broadcast, despite being in contact with them and requesting that certain personal information about his family be removed. In these circumstances, it was reasonable for the programme-makers to conclude that Mr Ruddle was not concerned about the inclusion of the photographs and as such the inclusion of them did not unwarrantably infringe his privacy.

Ofcom noted that the programme did not include footage of the exterior of Mr Ruddle's property. With regard to the inclusion of footage of the interior of the house in which Mrs Ruddle lived, Ofcom considered that, as Mr Ruddle did not live in the house and the footage did not include anything that could be construed as personal information particular to Mr Ruddle, the inclusion of the footage did not infringe Mr Ruddle's privacy.

With regard to the alleged inclusion of personal information about Mr Ruddle and Ms Milne, along with "private family details", Ofcom recognised that Mr Ruddle was concerned not to have matters relating to his private and family life publicly discussed. However, Ofcom also acknowledged Mrs Ruddle's right to freely express her views and opinions on matters that have affected her own life. In the particular circumstances of this case, Ofcom considered that the personal information given about Mr Ruddle and Ms Milne in the programme

was already in the public domain and that they had the opportunity after the original broadcast to inform the programme-makers and/or broadcaster about not wishing personal information to be disclosed. In these circumstances, it was reasonable for the programme-makers to conclude that Mr Ruddle was not concerned about the inclusion of this information and as such the inclusion of this information did not unwarrantably infringe his privacy.

The complaint of unfair treatment and unwarranted infringement of privacy was not upheld.

Other programmes not in breach/out of remit

1 February – 14 February 2006

Programme	Trans Date	Channel	Category	No of Complaints
10 Years Younger	02/02/2006	Channel 4	Advertising	1
30 Minutes	27/01/2006	Channel 4	Misleading	1
Animals	12/12/2005	More4	Impartiality	1
Atom	29/01/2006	ITV1	Language	1
Autopsy: Life and Death	16/01/2006	Channel 4	Other	1
Baby Zone	06/02/2006	Living	Sponsorship	1
Balderdash & Piffle	30/01/2006	BBC2	Language	2
Banter	26/01/2006	BBC Radio 4	Other	1
BBC News	02/02/2006	BBC1	Inaccuracy / Misleading	1
BBC News	13/02/2006	BBC1	Due Impartiality	1
BBC Radio 5 Live	03/02/2006	BBC Radio 5 Live	Undue prominence	1
BBC Weather	21/01/2006	BBC1	Offence	1
Big Brother's Little Brother	23/01/2006	Channel 4	Other	1
Blue Peter	09/02/2006	BBC1	Dangerous behaviour	1
Breakfast	01/11/2005	BBC1	Offence	1
Capital Gold	28/10/2005	Capital Gold	Other	1
Celebrity Big Brother	08/01/2006	Channel 4	Other	1
Celebrity Big Brother	24/01/2006	E4	Impartiality	1
Celebrity Big Brother	26/01/2006	Channel 4	Misleading	1
Celebrity Big Brother	27/01/2006	Channel 4	Offence	3
Celebrity Big Brother	31/01/2006	Channel 4	Other	1
Celebrity Big Brother	01/02/2006	Channel 4	Impartiality	1
Celebrity Big Brother	27/01/2006	Channel 4	Religious Offence	1
Central Extra	24/01/2006	ITV	Impartiality	1
Channel 4 News	31/01/2006	Channel 4	Impartiality	2
Channel 4 News	01/02/2006	Channel 4	Impartiality	1
Channel 4 News	02/02/2006	Channel 4	Impartiality	2
Channel 4 News	06/02/2006	Channel 4	Violence	1
Channel S	19/01/2006	Channel S	Advertising	1
Charlie Wolf	21/01/2006	Talksport	Violence	1
Chewin' The Fat	20/01/2006	BBC1	Other	1
Chimp Week	09/01/2006	BBC1	Sexual portrayal	1
Chopped Off: The Man Who Lost His Penis	31/01/2006	Channel 4	Offence	1
Cold Case	25/01/2006	Sky Two	Violence	1
Coronation Street	27/01/2006	ITV1	Other	2
Coronation Street	04/01/2006	ITV1	Generally Accepted Standards	1
Coronation Street	01/02/2006	ITV1	Misleading	1
Coronation Street	03/02/2006	ITV1	Other	1
Coronation Street	06/02/2006	ITV1	Offence	1

Coronation Street	27/01/2006	ITV1	Generally Accepted Standards	1
Crimewatch UK	31/01/2006	BBC1	Other	1
Dick and Dom in Da Bungalow	21/01/2006	BBC1	Language	1
Dispatches: Ryan Air: Caught Napping	13/02/2006	Channel 4	Inaccuracy / Misleading	1
Eastenders	24/01/2006	BBC1	Sexual portrayal	1
Emmerdale	20/01/2006	ITV1	Advertising	1
Extraordinary Breast Feeding	30/01/2006	Channel 4	Sexual portrayal	1
Extraordinary Breast Feeding	26/01/2006	Channel 4	Sexual portrayal	2
Extraordinary Breast Feeding	01/02/2006	Channel 4	U18 in programmes	2
Five News	25/01/2006	Five	Impartiality	1
Fox News	01/02/2006	Fox News	Impartiality	1
Frank Skinner Show	06/02/2006	ITV1	Generally Accepted Standards	1
GMTV	01/02/2006	ITV1	Offence	1
Grampian News	05/02/2006	ITV1	Dangerous behaviour	1
Harry Hill's TV Burp	04/02/2006	ITV1	Sex / Nudity	3
Haunted Homes	03/02/2006	ITV2	Dangerous behaviour	1
Help Yourself with Angus Deayton	30/01/2006	ITV1	Violence	1
Holby City	07/02/2006	BBC1	Generally Accepted Standards	1
Holiday	13/02/2006	BBC1	Violence	1
Holly and Stephen's Saturday Showdown	28/01/2006	ITV1	Sexual portrayal	4
I Love Being Anorexic	12/01/2006	BBC3	Other	1
Iain Lee	10/01/2006	LBC97.3	Other	1
Iain Lee	19/01/2006	LBC97.3	Sexual portrayal	1
Iain Lee	20/01/2006	LBC97.3	Generally Accepted Standards	1
Ian Danter's Sunday Carve Up	15/01/2006	Heart 106.2	Sexual portrayal	1
Islam Channel	30/07/2005	Channel 4	Impartiality	1
ITV News	20/01/2006	ITV1	Other	1
ITV News	31/01/2006	ITV1	Impartiality	2
ITV News	01/02/2006	ITV1	Scheduling	1
ITV News	06/02/2006	ITV1	Generally Accepted Standards	1
Jerry Springer - The Opera	06/02/2006	BBC2	Religious Offence	1
Jo Parkerson	28/01/2006	LBC97.3	Other	1
John Bishop	28/01/2006	Radio City 96.7	Other	1
Johnny Vaughan Breakfast Show	01/02/2006	Capital FM	Other	1
Jonathan Dimbleby	29/01/2006	ITV1	Impartiality	1
Judge John Deed	10/02/2006	BBC1	Inaccuracy / Misleading	1
Kerrang Radio	11/01/2006	KERRANG!	Other	1
Kiss 100 FM Breakfast	17/01/2006	Kiss 100FM	Offence	1
Kiss FM	25/01/2006	Kiss 100FM	Offence	1
Little Britain	09/02/2006	BBC1	Generally Accepted Standards	1
Magic FM	07/12/2005	MAGIC105.4	Offence	1
Making of the People	11/01/2006	BBC1	Other	1
Midweek	25/01/2006	BBC	Offensive language	1
Mike Dickin	29/01/2006	Talksport	Offence	1
Mike Dickin	04/02/2006	Talksport	Inaccuracy / Misleading	1

Mischief	05/01/2006	BBC3	Sexual portrayal	1
Mock the Week	27/01/2006	BBC2	Other	1
Money Box	13/02/2006	BBC Radio 4	Undue prominence	1
Nazi Hate Rock: a MacIntyre Invest...	06/02/2006	Five	Crime – Incitement	2
Nick Ferrari	23/01/2006	LBC97.3	Other	1
Planet Sketch	27/01/2006	ITV1	Other	1
Play Sudoku	30/01/2006	ITV2	Misleading	1
Popworld	11/02/2006	Channel 4	Scheduling	1
Prisoners out of Control	19/01/2006	ITV2	Offence	1
Radio 1	03/10/2005	BBC Radio 1	Offence	1
Radio Reverb	27/01/2006	Radio Reverb	Language	1
Radio XL	07/03/2005	Radio XL	Other	1
Return to Gender	02/02/2006	Five	Misleading	1
Richard and Judy	05/10/2005	Channel 4	Offence	1
Richard and Judy	30/01/2006	Channel 4	Impartiality	1
Rome	18/01/2006	BBC2	Offence	1
Ross Kemp on Gangs	06/01/2006	Sky Two	Other	1
Scott Mills	26/01/2006	BBC Radio 1	Offence	2
Scott Mills	25/01/2006	BBC Radio 1	Other	1
Scott Mills	06/02/2006	BBC Radio 1	Sex / Nudity	1
Shameless	10/01/2006	Channel 4	Sex / Nudity	1
Shameless	07/02/2006	Channel 4	Violence	1
Shipwrecked	08/01/2006	Channel 4	Language	2
Shipwrecked	14/01/2006	Channel 4	Language	1
Sky Sports	18/12/2005	Sky Sports	Other	1
Soccer AM	21/01/2006	Sky Sports	Offence	1
Steve Allen Show	30/01/2006	LBC97.3	Other	1
Stuck on You	12/02/2006	Sky Movies	Offensive language	1
Sunday AM	05/02/2006	BBC1	Generally Accepted Standards	1
Surface	21/01/2006	ITV1	Scheduling	1
T4	07/01/2006	Channel 4	Sexual portrayal	1
The Bigger Picture with Graham Norton	30/01/2006	BBC1	Other	1
The Bill	03/02/2006	ITV1	Offence	1
The Bill	02/02/2006	ITV1	Sexual portrayal	1
The Chris Moyles Show	14/11/2005	BBC Radio 1	Offence	1
The Chris Moyles Show	06/12/2005	BBC Radio 1	Offence	1
The Chris Moyles Show	15/12/2005	BBC Radio 1	Other	1
The Chris Moyles Show	09/01/2006	BBC Radio 1	Language	1
The Friday Night Project	03/02/2006	Channel 4	Generally Accepted Standards	1
The Game with Rodney Marsh	03/02/2006	Talksport	Generally Accepted Standards	1
The Geoff Show	02/02/2006	Virgin Radio	Other	1
The Mike Davies Show	13/12/2005	BBC Radio 1	Language	1
The Perfect Penis	30/01/2006	Channel 4	Sexual portrayal	4
The Simpsons	30/01/2006	Channel 4	Violence	3
The Simpsons	31/01/2006	Channel 4	Offence	1
The Simpsons	03/02/2006	Channel 4	Violence	1
The Thick of It	02/01/2006	BBC2	Offensive language	1
The Thick of It	06/02/2006	BBC2	Offensive language	1

The Weekender	28/01/2006	XFM	Other	1
The World's Biggest Penis	01/02/2006	Channel 4	Offence	2
The Wright Stuff	06/02/2006	Five	Generally Accepted Standards	1
The X Factor	29/11/2005	ITV1	Other	1
The X Factor	03/12/2005	ITV1	Misleading	1
This Morning	02/12/2005	ITV1	Impartiality	2
Tim Shaw	16/01/2006	KERRANG!	Generally Accepted Standards	1
Titty Bang Bang	18/01/2006	BBC3	Offence	1
Titty Bang Bang	30/01/2006	BBC3	Sex/Nudity	1
Today with Des & Mel	01/02/2006	ITV1	Accuracy	1
Today with Des & Mel	03/02/2006	ITV1	Generally Accepted Standards	1
Top Gear	13/11/2005	BBC2	Generally Accepted Standards	1
TQ	07/02/2006	UCB TV	Religious Offence	1
Watchdog	24/01/2006	BBC1	Other	2
Will and Grace	03/02/2006	Channel 4	Generally Accepted Standards	1
You Are What You Eat	31/01/2006	Channel 4	Other	1