

# **Ofcom Broadcast Bulletin**

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## Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act<sup>2</sup>.

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

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
  - the prohibition on ‘political’ advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising<sup>3</sup>.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

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

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

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

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

## Note to Broadcasters

### Guidance on Rules 1.28 and 1.29 of the Code

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As a result of recent investigations into cases involving the due care of children who appear or participate in programmes and the application of Rules 1.28, 1.29 and 2.3 in these cases, Ofcom has updated the Guidance relating to these rules. The updated Guidance brings together the most up to date best practice in this area and provides links to precedent cases to assist broadcasters with compliance. In particular, the new Guidance suggests best practice on the use of risk assessments relating to the emotional care of under-eighteens appearing in programmes and the need to consider fully any potential negative impacts of their participation.

The new Guidance will replace the existing guidance (currently set out in Section One of the Code Guidance) and will be published as a separate link on the website from today. See:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/updated-code-guidance.pdf>

## Standards cases

### In Breach

#### News

BBC1, 29 October 2014, 13:00 and 18:00

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#### Introduction

On 29 October 2014, in its national news bulletins broadcast at 13:00 and 18:00 on BBC1, the BBC reported on the conclusion of the murder trial of John Lowe. Mr Lowe was found guilty of murdering his partner, Christine Lee, and her daughter, Lucy Lee, at his puppy breeding farm in Surrey.

Ofcom received two complaints about the broadcast in these bulletins of the 999 call made by Lucy Lee (“the 999 call”) shortly before her murder. The complainants considered that the inclusion of the call was “unnecessary”, “inappropriate” and that “viewers should have been warned of upsetting content beforehand”.

#### News at 13:00

The headlines began with the newsreader, Reeta Chakrabarti, giving brief details of an appeal for funds to tackle the Ebola outbreak, before saying “*and also this lunchtime...*”.

An extract from the 999 call was then played, accompanied by a photograph of Lucy Lee and an aerial shot of the puppy farm where her murder took place. Due to the relatively poor sound quality of the call, Ms Lee’s words were shown on screen in the form of subtitles. She was heard to say:

*“...my mother’s just been shot...Keeper’s Cottage Stud...I’m running for my life...he’s just shot my mum, John Lowe...I don’t know if he’s going to shoot me ...”*

The newsreader then said:

*“Gunned down by her mother’s partner, a jury finds John Lowe guilty of murdering Christine Lee, and her daughter Lucy”*.

Later in the bulletin, Reeta Chakrabarti read the introduction to a pre-recorded news report about the murder trial of John Lowe:

*“An 82 year-old man has been found guilty of murdering his partner and her daughter whom he shot dead at their puppy farm near Farnham in Surrey. John Lowe told police after his arrest that he ‘put down’ Christine Lee and her daughter Lucy because they had been causing problems for weeks”*.

The report was by the BBC’s South of England correspondent, Duncan Kennedy. Accompanied by aerial footage of the puppy farm, he said:

*“This is the moment 82 year-old John Lowe gave himself up to police. It’s last February at his farm in Surrey and he’s just murdered two women. They were Christine Lee, his partner, and her daughter, Lucy Lee, both shot at close range. Christine was killed inside the farmhouse. Lowe then fired at Lucy. She made a*

*desperate run for it and managed to phone 999. A chilling call from a woman in fear of her life”.*

A slightly extended version of the 999 call as described above was then played:

*“...my mother’s just been shot...Keeper’s Cottage Stud...I’m running for my life...he’s just shot my mum, John Lowe...I don’t know if he’s going to shoot me...I don’t know if I’m going to be alive if I go back in there”.*

Mr Kennedy said:

*“But moments after that harrowing phone call, Lucy did go back inside the farm here. A decision that cost her her life. John Lowe shot her dead as well”.*

The report then continued with an interview with Stacey Banner, Lucy Lee’s sister.

#### News at 18:00

In the 18:00 bulletin (presented by Sophie Raworth), the Lowe murder trial was the lead story. The newsreader read the following headline:

*“Surrey Police apologise to the family of two women who were murdered by an 82-year old man on his puppy farm. Police confiscated John Lowe’s guns but returned them shortly before he killed his partner and then her daughter after this desperate call”.*

The same audio of the 999 call as had been played during the 13:00 bulletin headlines was then broadcast, accompanied by aerial footage of the puppy farm and in-vision subtitles of Lucy Lee’s words.

After the news headlines, Sophie Raworth introduced the story by saying:

*“Surrey Police have apologised to the family of two women who were shot dead by an 82-year-old man on his dog breeding farm in Surrey. John Lowe was found guilty at Guildford Crown Court of murdering Christine and Lucy Lee last February during an argument. The jury heard a frantic 999 call from Lucy telling police that Lowe had shot her mother and that she feared for her own life. Police had confiscated his guns last year but handed them back seven months before he killed the women. Well Duncan Kennedy joins us now from outside the farm in the village of Tilford in Surrey”.*

Duncan Kennedy then briefly introduced a revised version of his pre-recorded report. The report began with aerial footage of the puppy farm filmed shortly after the murders. Mr Kennedy said:

*“The white-haired figure of John Lowe, at his farm, moments after he’s murdered the two women. Christine Lee, his partner, and her daughter Lucy, were killed with his shotgun. Police believe Christine was hit first inside the house. That forced Lucy to run for her life. Outside, she made this desperate 999 call”.*

The same extended version of the 999 call as had been played in the Duncan Kennedy 13:00 news report was then broadcast accompanied by in-vision subtitles, a photograph of Ms Lee and aerial footage of forensic officers searching the crime scene.

We noted that the broadcasts took place during school half-term holidays.

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

- Rule 1.3: “Children must [...] be protected by appropriate scheduling from material that is unsuitable for them”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context (see meaning of "context" below). Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence.”

We therefore sought comments from the BBC as to how the broadcast of the 999 call in the two news bulletins complied with these rules.

## **Response**

The BBC set out how it takes into account the audience when scheduling its BBC1 daytime news bulletins. The broadcaster said that BBC1 news bulletins “are intended for UK audiences of all ages throughout the year” and that the “issue of school attendance is not of primary importance in determining editorial decisions over the use of potentially disturbing material, because school holidays result in only a small increase in the already small proportion of the audience composed of children”.

The BBC said that the use of the 999 call raised two questions: “whether the use of the material was editorially justified, and whether there was (or needed to be) appropriate warning or signposting”.

On whether the inclusion of the material was editorially justified, the BBC said that Ms Lee’s phone call “was a crucial element in the day’s tragic events and gave a clear insight both into John Lowe’s criminal conduct – that, in respect of the second shooting [i.e. of Lucy Lee] it was more evidently calculated – and into Ms Lee’s bravery”.

The BBC said that against these considerations it also “had to weigh the potentially distressing impact of a recording which showed Ms Lee to have been in a state of anxiety and fear, and which viewers would have been aware had been made immediately before she decided to re-enter the house and lost her life”. The BBC told Ofcom that the programme team concluded that although it “was a disturbing recording”, in its view it was “integral to understanding the events of that day and the case against Lowe”.

As regards warnings to viewers, the BBC referred to Duncan Kennedy’s words read out in his pre-recorded reports before the 999 call was played, and said these “provided a limited form of signposting”. But it stated that “in retrospect...viewers should have been provided with a more detailed and considered warning of what they were about to hear [...] in the cue read by the presenter”. The BBC added that it believed “the extracts from the recording should not have been used in the headlines

of bulletins [...] before there was an opportunity for the reporter and presenter to provide more detailed context”.

In light of the above, the BBC said that it “accept[ed] that the bulletins did not fully comply with Rule 2.3, in relation either to the audience in general or to the small proportion of it composed of children”. As a result, the BBC said that: “Editorial managers in BBC News reminded the programme teams about the editorial guidelines in relation to such items and the sensitivities involved, and of the need for the provision of proper context and warning if any decision to broadcast similar material in the future is made”.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, which include ensuring that persons under the age of eighteen are protected from material that is unsuitable for them, and providing adequate protection for members of the public from harmful and/or offensive material. These objectives are reflected in Sections One and Two of the Code.

In reaching a Decision in this case, Ofcom has taken into account that broadcasters and audiences have the right to freedom of expression. This gives the broadcaster a right to transmit and the audience a right to receive creative material, information and ideas without interference from a public body, but subject to restrictions prescribed by law and necessary in a democratic society. This is set out in Article 10 of the European Convention of Human Rights.

The Code contains no prohibition on broadcasting distressing or violent content in news programmes. It is important that news programmes shown before the 21:00 watershed are able to report freely on distressing or violent events. In doing so however they must comply with the Code. When including offensive or distressing content in the news before the watershed they must ensure that as necessary or appropriate such material must be appropriately scheduled or justified by the context. Ofcom acknowledges that this frequently involves news broadcasters making finely nuanced decisions, often under considerable time pressure.

### Rule 1.3

Rule 1.3 states that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content, the time of the broadcast, the likely audience expectations and the availability of children to view, taking into account school time, weekends and holidays.

We first considered whether the programme contained material unsuitable for children.

The words and tone of Ms Lee’s voice made it clear she was highly distressed. We also considered that viewers (including some children) would have understood that Ms Lee was to be murdered in the moments following the 999 call. In Ofcom’s view, given that the call represented the last traumatic moments of Ms Lee’s life before her murder, it had the clear potential to disturb viewers. This was particularly true with regard to children, whose exposure to death (and their ability to understand it and place it in context) is generally more limited than that of adults. We therefore considered that the material was not suitable for children.

We went on to assess whether the 999 call material was appropriately scheduled.

Ofcom noted that the 999 call was broadcast in the BBC1 News bulletins at 13:00 and 18:00 during the school half-term holidays. We noted the BBC's comments that school holidays have a limited impact on the amount of children watching its news bulletins. We also however took into account that the BARB<sup>1</sup> audience figures for the two bulletins indicated that around 46,000 children under 15 watched the 13:00 news, and around 176,000 were in the audience for the 18:00 news. These figures represented respectively 1.4% and 2.9% of the total audiences for these programmes.

Ofcom's guidance<sup>2</sup> on Section One of the Code states:

"It is accepted that it is in the public interest that, in certain circumstances, news programmes may show material which is stronger than may be expected pre-watershed in other programmes as long as clear information is given in advance so that adults may regulate the viewing of children".

We noted that there was no warning before the 999 call was played in the two programmes' headline sequences. We recognise it is not in keeping with audience expectations nor the well-established style of television news bulletins to give warnings to viewers in advance about the content of new headline sequences. However, the consequence of this is that viewers (and in particular parents and carers) therefore have no advance information about the broadcast of potentially distressing material, as happened in this case.

In Ofcom's view the potential for the 999 call to cause distress and offence when included in the Duncan Kennedy reports was reduced to some extent by it being used in the context of considered and longer reports on the murder trial, and after introductory words by the reporter. On balance however Ofcom's Decision was that the uses of the 999 call in the headlines of the two bulletins, and in the Duncan Kennedy reports, were not appropriately scheduled. We noted that, in its comments to Ofcom, the BBC said that it accepted that the phone call "should not have been used in the headlines of the two bulletins" and "there should have been detailed and considered warning of the inclusion of material in the bodies of the bulletin".

Taking all these factors into account, on balance we considered that Rule 1.3 was breached.

### Rule 2.3

Rule 2.3 states that in applying generally accepted standards broadcasters must ensure that potentially offensive material is justified by the context. Context is assessed by reference to factors such as the editorial content, the degree of offence and likely audience expectations.

Ofcom first considered whether the material was potentially offensive.

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<sup>1</sup> Broadcasting Audience Research Board (BARB) is the official source of television viewing figures in the UK.

<sup>2</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section1.pdf>

In our view for the same reasons that broadcast of the 999 call was unsuitable for children (see above), Ofcom considered that it was capable of causing offence to viewers in general. We also took into account that the call was played alongside aerial footage of the crime scene and (with the exception of the call's broadcast during the 18:00 headlines) a photograph of the murder victim, Lucy Lee, who made the call. We considered that these visual elements heightened to some extent the potential offence caused by the accompanying audio.

We next considered whether the material was justified by the context.

In its representations, the BBC said that "the extracts from the recording should not have been used in the headlines of bulletins...before there was an opportunity for the reporter and presenter to provide more detailed context". We agreed. We recognised that the broadcaster had valid reasons for wishing to use the 999 call as part of its reporting of a contemporaneous news story. However, the use of this potentially distressing and offensive material required sufficient contextualisation. In our view, the broadcast of this distressing 999 call in the headlines of these two pre-watershed news bulletins did not provide an opportunity for it to be properly contextualised.

Concerning the use of the 999 call within the pre-recorded reports, we noted that some limited context was given to their broadcast. This included the introductions to the Duncan Kennedy pre-recorded reports read out by the newsreaders, and Duncan Kennedy's words in the reports themselves, for example describing the call as "*chilling*" immediately before it was broadcast during the 13:00 bulletin, and "*desperate*" during the 18:00 bulletin. However, on balance, we did not consider that this limited contextualisation provided sufficient context overall to justify the broadcast of the 999 call in the Duncan Kennedy reports in the form they were broadcast at both these times.

We noted that as a result of these broadcasts, the BBC has reminded its news programme teams about the BBC's editorial guidelines on sensitivities surrounding the broadcast of this type of material, and about the need for proper context and warning to be given to the audience.

Nevertheless, we considered on the facts of this particular case that the use of the 999 call in these news programmes was not justified by the context. Rule 2.3 was therefore breached.

We have previously reminded broadcasters including the BBC<sup>3</sup> to take care, in particular, to ensure that material in news bulletin headline sequences is appropriate for the likely audience. As a result of this case, we reiterate the need for broadcasters to consider carefully the material included in news headline sequences.

### **Breaches of Rules 1.3 and 2.3**

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<sup>3</sup> See Ofcom's Decision on *BBC News at Six*, BBC 1, 24 May 2013, 18:00 in issue 245 of Ofcom's Broadcast Bulletin, available at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/245/obb245.pdf>

## In Breach

### South East Today

*BBC1 South East, 22 November 2014, 18:00*

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#### Introduction

During this edition of *South East Today*, a news item reported on comments by UKIP MP Mark Reckless about his party's immigration policy. The item was read by the South East Today presenter and was accompanied by two brief clips of pre-recorded footage. One of these clips showed Mr Reckless with the UKIP Leader, Nigel Farage, and contained flashing images, caused by flash photography.

Ofcom received a complaint from a viewer who has photosensitive epilepsy ("PSE"). The complainant was particularly concerned that the report contained no warning before or during its broadcast, and reported that they experienced seizures as a result of watching the footage.

Ofcom therefore carried out an assessment of the broadcast content against Ofcom's Technical Guidance to broadcasters on flashing images (the "PSE Guidance")<sup>1</sup>. The PSE Guidance states that a sequence containing flashing at a rate of more than three flashes per second which exceeds specific intensity thresholds may be potentially harmful. The technical assessment of the flashing images in this news report found that the material did not comply with the PSE Guidance.

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

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

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

#### Response

The BBC agreed that there should have been a warning prior to the broadcast of the news item. It explained that the omission of a warning was as the result of an "oversight by the staff concerned" for which it apologised.

The BBC explained that since this event the Editor of South East News has reminded producers to "ensure that warnings are given prior to reports that contain flash photography and advised that wherever possible they should try to avoid using pictures that contain it."

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/812612/section2.pdf>

## Decision

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

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

In this case, the content showing Mark Reckless and Nigel Farage lasted for approximately 11 seconds. Ofcom’s technical assessment of this material found that it materially exceeded the maximum limits set out in the PSE Guidance (in terms of the proportion of the screen area occupied by the flashing, and the intensity of the screen brightness changes involved). The sequence contained flashing images at an average rate of approximately six flashes per second (the limit in the PSE Guidance being no more than three flashes per second). It therefore posed a significant risk of harm to viewers in the audience with PSE and we noted that the complainant in this case had reported experiencing seizures as a result of watching it.

Ofcom acknowledged that the omission of a warning was as a result of human error on this occasion, and that the *South East Today* producers have been reminded of their compliance responsibilities with regard to Rule 2.12. Nonetheless this report contained flashing images at levels which significantly exceeded the technical limits in the PSE Guidance, and the broadcast was therefore in breach of Rule 2.12 of the Code.

## Breach of Rule 2.12

## In Breach

### Competition

*5USA, various dates and times*

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#### Introduction

5USA is a general entertainment channel operated by Channel 5 Broadcasting Limited (“Channel 5” or “the Licensee”). A complaint alerted Ofcom to a broadcast competition on 5USA offering viewers the chance to win £15,000. The competition was transmitted as a standalone item after a drama programme, and consisted of the following voiceover:

*“How does an extra five thousand pounds a month for the rest of the year, tax free, sound? Yes, that’s right, you’ll receive five grand for October, November and December. That’s a massive £15,000. You can finally book that luxury holiday you’ve been dreaming of; maybe pay off someone’s university fees; or give your house that much needed make-over. Whatever you decide, you could be walking away with £15,000, plus some ‘Drama on Five’ goodies.”*

This was followed by details of how to enter – via premium rate telephony services (“PRS”)<sup>1</sup> or post – including terms and conditions. The voiceover was accompanied by various visual representations of the prize and ways to spend it, followed by on-screen entry details.

The Licensee confirmed to Ofcom that the competition was broadcast in programming time. Ofcom therefore considered that the transmission of the competition raised issues warranting investigation under the following rule:

Rule 9.27: “Premium rate telephony services will normally be regarded as products or services, and must therefore not appear in programmes, except where:

- a) they enable viewers to participate directly in or otherwise contribute directly to the editorial content of the programme; or
- b) they fall within the meaning of programme-related material.”

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

#### Response

Channel 5 explained that the competition was Channel 5’s “Drama competition”, created for viewers of specific dramas broadcast on Channel 5. The dramas were *Body of Proof*, *NCIS*, *Secrets and Lies*, *Wentworth*, *CSI*, *Under the Dome*, *Dallas*, *Longmire*, *Chicago PD*, *Castle*, *Diagnosis Murder*, *Columbo* and *McBride*. The competition was promoted only in and around those dramas.

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<sup>1</sup> “PRS” is defined in a note to Section Nine of the Code as referring to a premium rate telephony service regulated by PhonepayPlus.

The Licensee stated that the competition was promoted in standalone items “to ensure that it was distinct from the editorial of the programmes, thereby ensuring that the primary purpose of the programmes remained editorial and the competition and the promotion of the PRS entry to it was subsidiary to that.”

Channel 5 said it was conscious that PRS promoted in editorial airtime must fall into one of the categories set out in Rule 9.27 in order to be compliant with the Code. The Licensee believed Ofcom had accepted PRS competitions broadcast by Channel 5 and many other broadcasters promoted in and around television programmes in editorial airtime were compliant with the Code, whether pursuant to Rule 9.27(a) or (b). The Licensee was of the view that such competitions “tend to be linked to one programme or series, but that a number of broadcasters link PRS competitions to more than one programme, such as Channel 5 had done with this Drama competition.”

Channel 5 noted that Ofcom’s published guidance<sup>2</sup> to Rule 9.27(a) specifically recognises that PRS competition entries can enable viewers to participate directly in or contribute directly to the editorial content of programmes thereby bringing them within the provisions of Rule 9.27. The Licensee said that it had always considered that even if a PRS competition promoted in editorial airtime was not considered to fall within Rule 9.27(a) (i.e. it did not enable viewers to participate directly in or otherwise contribute directly to the editorial content of the programme) then it would comply with the provisions in the Code in relation to ‘programme-related material’ under Rule 9.27(b).<sup>3</sup>

Channel 5 noted that Ofcom’s published guidance on programme-related material, states that: “a product or service directly derived from more than one specific programme may be considered to be programme-related material in relation to those programmes”. The Licensee stated that the competition in this case was promoted only during and around the specific dramas for which it was “specifically created... and directly derived.” It believed that the competition was “intended to allow viewers to benefit fully from, or interact with, the Drama programmes in precisely the same way as a competition created for one programme or series would.” The Licensee said that, in this case, it was the competition itself that it considered to be directly derived from the programmes. Further, the Licensee considered that the “*Drama on 5 goodies*” that formed part of the prize fulfilled the provision of Rule 9.27(b), allowing viewers to benefit fully from, or interact with the programme.

## Decision

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

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<sup>2</sup> Ofcom’s Guidance to Section Nine of the Code can be found at:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>.

<sup>3</sup> “Programme-related material” is defined in a note to Section Nine of the Code as consisting of “products or services that are both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or to interact with, that programme.”

Article 23 of the AVMS Directive limits the amount of advertising a broadcaster can transmit to 12 minutes per hour. However, announcements made by a broadcaster in connection with its own programmes and ancillary products directly derived from those programmes are exempt from this limit.<sup>4</sup>

Ofcom enforces the limit on the amount of advertising that can be shown through rules in the Code on the Scheduling of Television Advertising or 'COSTA'.<sup>5</sup> The exemption, required by the AVMS Directive, to this limit – i.e. for announcements made by a broadcaster in connection with its own programmes – is reflected in Section Nine of the Broadcasting Code, including Rule 9.27.

Rule 9.27 of the Code therefore does permit broadcasters to utilise PRS within programming content in specific circumstances. However, because such services do enable broadcasters to seek to generate income from viewers during programming material, the circumstances in which they may do so are limited – where the PRS either enables viewers to participate directly in or otherwise contribute directly to the editorial content of the programme (Rule 9.27(a)) or if it constitutes 'programme-related material' as defined in the Code (Rule 9.27(b)).

In this case, we noted that entrants to the competition could not in any way impact on the editorial content of the drama programming shown, which consisted of pre-recorded dramatic serials such as murder mysteries and soap operas. In relation to competitions, the requirements of Rule 9.27(a) are likely to be met **only** where a competition forms part of the fabric of a programme and not, as in this case, a separate and largely unrelated, piece of content. Therefore, we did not consider the exemption set out in Rule 9.27(a) applied.

We then considered whether the competition satisfied the Code's definition of programme-related material and therefore fell with the exemption permitted by Rule 9.27(b). The Code makes clear that in order for a product or service to qualify as programme-related material it must be both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or interact with, that programme.

Ofcom's Guidance to Section Nine of the Code explains that "similarity, in terms of genre or theme(s), between a programme and a product or service...is not in itself sufficient to establish that the product or service is directly derived from the programme." As identified by Channel 5, the Guidance does state that a "product or service directly derived from more than one specific programme may be considered to be programme-related material in relation to those programmes". However, the Guidance continues that "...scope for this is limited. Ultimately this will depend on the facts of an individual case. In each case, in order for the material to be considered programme-related material and promoted accordingly, a broadcaster would need to be able to demonstrate to Ofcom's satisfaction that the material in question was directly derived **to a significant extent** from each of those programmes" [emphasis in original].

Ofcom did not accept Channel 5's argument that the competition met the definition of programme-related material because it was created to be broadcast around the specific programmes. As made clear in the Guidance, for material linked to a number

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<sup>4</sup> See Article 23 and Recital 97 of the AVMS Directive.

<sup>5</sup> A copy of COSTA can be found at:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/tacode.pdf>.

of programmes to be deemed to be programme-related, broadcasters are likely to need to be able to demonstrate that it is directly derived to a significant extent from each of those programmes. Ofcom did not consider that simply creating a competition to be scheduled around specific programmes was sufficient to demonstrate that the competition was directly derived from those programmes and allowed viewers to fully benefit from or interact with them.

Ofcom therefore went on to consider whether the competition content, including the prizes, met the definition of programme-related material. We noted that the prizes in the competition consisted of £15,000 in cash and “*some Drama on 5 goodies*”. In our view the focus of the competition was an opportunity for entrants to win a cash sum. We noted that the voiceover focused almost entirely on the benefits of winning a significant cash prize: “*You can finally book that luxury holiday you’ve been dreaming of: maybe pay off someone’s university fees; or give your house that much needed make-over.*” There was no reference to specific programmes. Further, we considered that the reference to the “*Drama on 5 goodies*”, which consisted of a mug, coasters, umbrella and bag with channel and genre branding, was brief and clearly secondary to the main prize – none of these items was shown or described in detail. In our view, this was insufficient to establish that the competition considered as a whole was “directly derived” to any significant extent from the drama programmes in question. As a result, the competition did not meet the definition of programme-related material set out in the Code.

Further, even if the focus of the competition had been on the “*Drama on 5 goodies*”, Ofcom did not accept that the genre-based merchandise in this case was directly derived to a significant extent from the specific dramas.

Because the competition neither enabled viewers to participate or otherwise contribute directly to the editorial content of the programme, nor constituted ‘programme-related material’, we concluded that the competition was in breach of the Code.

### **Breach of Rule 9.27**

## In Breach

### Sponsorship credits

*Tritio Matra, Channel i, 29 December 2014, 00:15*

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#### Introduction

Channel i is a news and general entertainment channel aimed at the Bangladeshi community in the UK and Europe. The licence for Channel i is held by Prime Bangla Limited (“Prime Bangla” or “the Licensee”).

Ofcom received a complaint that a sponsorship credit attached to a talk show called *Tritio Matra* was akin to advertising. We viewed the material and noted the following on-screen text during a sponsorship credit for the UK-based shop Bangla Carpets and Furniture:

*“Free UK delivery*

*BANGLA CARPETS & FURNITURE*

*[website address, postal address, telephone number]”.*

This was accompanied by footage of carpets being attended to by a member of staff in the shop.

We also noted a sponsorship credit for the international cargo company JMG Air Cargo, which included the following on-screen text:

*“Call [telephone numbers]*

*ONLINE BOOKING  
& TRACKING  
JMG*

*[website address]”.*

This was accompanied by an image of the company’s logo.

Ofcom considered that the material raised issues warranting investigation under Rule 9.22(a) of the Code:

Rule 9.22: “Sponsorship credits must be distinct from advertising. In particular:

- (a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor’s products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement.”

We therefore asked the Licensee for its comments as to how the content complied with Rule 9.22(a).

## Response

The Licensee chose not to comment.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. The rules in Section Nine of the Code, among others, reflect this objective.

The Audiovisual Media Services Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages.

Rule 9.22(a) of the Code therefore requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action, or encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself and references to the sponsor’s products, services or trade marks should be for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement.

Ofcom’s published guidance<sup>1</sup> on Rule 9.22(a) states: “[C]laims about the sponsor’s products/services (in particular those that are capable of objective substantiation) are likely to be considered as advertising messages and therefore should not be included in sponsorship credits. Examples include:...the use of promotional language and/or superlatives to describe the sponsor and/or its products and services (e.g. referring to: the breadth of range of products a sponsor provides or how easy a sponsor’s product is to use).”

The guidance also states: “[C]redits that contain direct invitations to the audience to contact the sponsor are likely to breach the Code. However, basic contact details (e.g. websites or telephone numbers) may be given in credits, but these should not be accompanied by language that is likely to be viewed as an invitation to the audience to contact the sponsor.”

Ofcom considered that the on-screen text “*Free UK delivery*” in the sponsorship credit for Bangla Carpets and Furniture constituted a claim about the convenience of accessing the service provided by the company and the financial benefit of doing so, and was therefore an advertising message.

In the sponsorship credit for JMG Cargo, Ofcom considered that the on-screen text “*Call [telephone numbers]*”, shown alongside two telephone numbers, directly invited the viewer to contact the sponsor, and was therefore a call to action. Ofcom also

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<sup>1</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>.

considered that the text “*ONLINE BOOKING & TRACKING*” constituted a claim about the services offered by the company.

The sponsorship credits were therefore in breach of Rule 9.22(a).

**Breaches of Rule 9.22(a)**

## Advertising Scheduling cases

### In Breach

#### Breach findings table

*Code on the Scheduling of Television Advertising compliance reports*

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Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“... time devoted to television advertising and teleshopping spots on any channel must not exceed 12 minutes.”

Channel	Transmission date and time	Code and rule / licence condition	Summary finding
Vox Africa	24 October 2014, 21:00	Rule 4 of COSTA	<p>Ofcom noted, during monitoring that Vox Africa exceeded the permitted advertising allowance in a clock hour on 24 October 2014 by 50 seconds.</p> <p>The licence holder for Vox Africa, Vox Africa Plc (“the Licensee”), explained the error occurred due to live news programming which pushed additional commercials into the 21:00 clock hour.</p> <p>The Licensee confirmed it had reviewed its procedures to ensure compliance with COSTA.</p> <p><b>Breach</b></p>

## Broadcast Licence Conditions cases

### In Breach

#### Licence Condition 17(2) – compliance procedures and arrangements

*International Television Channel Europe Limited regarding its service NTV (TLCS-1624)*

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#### Introduction

NTV is a general entertainment and news service broadcast on the digital satellite platform. The channel is aimed at the Bangladeshi community in the UK and other parts of Europe. The licence for the service is held by International Television Channel Europe Limited (“ITCE” or “the Licensee”). Ofcom granted this Television Licensable Content Service (“TLCS”) licence on 31 January 2012.

Between April 2013 and September 2014, Ofcom recorded a total of 20 breaches of the Ofcom Broadcasting Code (“the Code”) against ITCE because of material broadcast on its service NTV. Of these 20 breaches of the Code: there were 15 breaches of rules in Section Nine of the Code (Commercial References in Television Programming); two breaches of rules in Section Five (Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions) and three breaches of Section Six (Elections and Referendums). All breaches related to material broadcast on NTV during the period May 2012 to June 2014.

The 20 breaches were recorded in 16 separate cases, as follows:

- 1) Sponsorship credits, NTV, 20 May 2012 to present: breaches of Rule 9.22(a) of the Code for inclusion of advertising messages in sponsorship credits. Issue 227 of the Broadcast Bulletin, (one breach published 8 April 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb227/obb227.pdf>
- 2) Bangladesh Nationalist Party item, NTV, 19 January 2013, 21:00: breach of Rules 5.5, 9.1 and 9.2 of the Code for broadcasting a message from the Bangladeshi Nationalist Party. Issue 227 of the Broadcast Bulletin (three breaches published 8 April 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb227/obb227.pdf>
- 3) Sponsorship of Metro Life, NTV, 20 April 2013, 21:00: breach of Rule 9.22(a) of the Code relating to advertising claims in a Lycamobile sponsorship credit. Broadcast Bulletin (one breach published 5 August 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb235/obb235.pdf>
- 4) *Maya Nigom*, NTV, 14 April 2013, 21:00 and *News*, NTV, 14 April 2013, 21:30: breach of Rule 9.2 of the Code for failure to ensure distinction between editorial and advertising. Issue 236 of the Broadcast Bulletin (one breach published 27 August 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb236/obb236.pdf>

- 5) *Accountancy with Mahbub Murshed*, NTV, 29 April 2013, 15:30: breach of Rule 9.12 of the Code for product placement in a consumer advice programme. Issue 237 of the Broadcast Bulletin (one breach published 9 September 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2361/obb237.pdf>
- 6) Sponsorship of *Adhan-e-Isha*, NTV, 6 August 2013, 22:05: breach of Rule 9.23 of the Code from a sponsorship credit appearing during a religious programme. Issue 244 of the Broadcast Bulletin (one breach published 16 December 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/2431/obb244.pdf>
- 7) Charity Appeal, NTV, 9 July 2013, 19:00: breach of Rule 9.33 of the Code for failing to establish the charitable status of the recipient of charitable donations. Issue 244 of the Broadcast Bulletin (one breach published 16 December 2013): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/2431/obb244.pdf>
- 8) *Shomoyer Sathe*, NTV, 28 October 2013, 23:00: breach of Rule 5.5 of the Code for broadcasting material without due impartiality. Issue 250 of the Broadcast Bulletin 250 (one breach published 17 March 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb250/obb250.pdf>
- 9) Sponsorship of *Tobuo Jibon*, NTV, 21 December 2013, 20:30: breach of 9.22(a) of the Code for inclusion of an advertising message in a sponsorship credit. Issue 253 of the Broadcast Bulletin (one breach published 6 May 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2521/obb253.pdf>
- 10) *Aine O Adhikar*, NTV, 14 December 2013, 12:30 – breach of 9.12(b) of the Code for product placement in a consumer advice programme. Issue 253 of the Broadcast Bulletin (one breach published 6 May 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2521/obb253.pdf>
- 11) *Accountancy with Mahbub Murshed*, NTV, 5 January 2014, 15:00: breach of 9.12(b) of the Code for product placement in a consumer advice programme. Issue 253 of the Broadcast Bulletin (one breach published 6 May 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2521/obb253.pdf>
- 12) *Education Consultancy with Kazi*, NTV, 7 January 2014, 20:00: breach of Rule 9.12(b) of the Code for product placement in a consumer advice programme. Issue 253 of the Broadcast Bulletin (one breach published 6 May 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2521/obb253.pdf>
- 13) *Aey Shomoy*, NTV, 8 April 2014, 23:00 - breach of Rule 9.12 of the Code for product placement in a current affairs programme. Issue 261 of the Broadcast Bulletin (one breach published 8 September 2014): <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2601/obb261.pdf>

- 14) *Europen Shangbad*, NTV, 6 May 2014, 22:15: breaches of Rules 6.8, 6.9 and 6.11 of the Code for failing to observe reporting rules during an election period. Issue 261 of the Broadcast Bulletin (three breaches published 8 September 2014):  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2601/obb261.pdf>
- 15) *lcche Ghuri*, NTV, 6 May 2014, 22:30: breach of Rule 9.22 of the Code for inclusion of an advertising message in a sponsorship credit. Issue 261 of the Broadcast Bulletin (one breach published 8 September 2014):  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2601/obb261.pdf>
- 16) *Nil Ronger Golpo*, NTV, 3 June 2014, 21:00: breach of Rule 9.22 of the Code for inclusion of an advertising message in a sponsorship credit. Issue 261 of the Broadcast Bulletin (one breach published 8 September 2014):  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2601/obb261.pdf>

Condition 17(2) of ITCE's TLCS licence requires the Licensee to adopt and observe compliance procedures to ensure that its programming meets the standards set in the Code. Specifically, Condition 17(2) requires that:

"The Licensee shall adopt procedures and ensure that such procedures are observed by those involved in providing the Licensed Service for the purposes of ensuring that programmes included in the Licensed Service comply in all respects with the provisions of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance. The Licensee shall, without prejudice to the generality of the foregoing, ensure that:

- (a) there are sufficient persons involved in providing the Licensed Service who are adequately versed in the requirements of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance and that such persons are able to ensure compliance with such requirements on a day to day basis;
- (b) adequate arrangements exist for the immediate implementation of such general and specific directions as may from time to time be given to the Licensee by Ofcom;
- (c) the requirements of the Audiovisual Media Services Directive [Directive 2010/13/EU] are complied with where practicable, having regard to the provisions set out in Articles 16, 17 and 18 of the Directive and any guidance issues and from time to time revised by Ofcom for the purpose of giving effect to those provisions;
- (d) adequate arrangements exist for the advance clearance of advertisements of such types and for such products as Ofcom shall determine;
- (e) that in each department of the Licensee where any of the procedures referred to in this Condition are to be implemented the member of staff responsible is of sufficient seniority to ensure immediate action and that issues relating to compliance may be brought where necessary directly before senior management for consideration".

Given the requirements of Licence Condition 17(2), Ofcom requires that an applicant for a licence sets out the compliance arrangements it will have in place from the point at which a licence is granted.

In its application for a TLCS licence, ITCE provided various details about the compliance procedures it said would be in place following the award of the licence. These referred to a compliance operation managed by a named compliance officer and supported by a compliance team consisting of the CEO and a further individual, as well as details of how staff would be trained on Ofcom codes.

The licence was granted on 31 January 2012. On 25 May 2012, ITCE informed Ofcom that the individual named on their licence application form was no longer the compliance contact for NTV and that his responsibilities had been passed to the CEO of ITCE.

### Summary of Ofcom's investigation

Following publication in the Broadcast Bulletin of the breaches in cases (1) to (7)<sup>1</sup> recorded between April 2013 and December 2013, Ofcom requested that the Licensee attend a meeting to discuss its compliance arrangements, particularly concerning the Licensee's application of Section Nine of the Code. This meeting, which took place on 20 January 2014, was attended by ITCE's Chief Executive Officer ("the CEO") and an NTV contributor. During this meeting, ITCE informed Ofcom that the majority of the content broadcast on NTV was checked for compliance by the CEO. At this meeting, ITCE agreed that it would provide Ofcom with a detailed document setting out the compliance measures it had implemented since the breaches occurred.

ITCE subsequently informed Ofcom on 22 January 2014 that the CEO had reminded the team of the importance of Ofcom rules and that an external compliance consultant had been approached with a view to obtaining compliance guidance. The Licensee then in February 2014 supplied Ofcom with a copy of a document titled "NTV Compliance Procedures". This document consisted of a short summary of the main principles in Section Nine of the Code, as well as a list of the rules in Section Nine transcribed from the Code. No other documents concerning compliance were supplied.

On 12 March 2014, ITCE's CEO informed Ofcom that when a programme proposal is received, the CEO along with the team go through their consultant's guidelines and "...make sure that anything we put on the channel is complying with Ofcom regulations, if I have any confusion I get in touch with our consultant for their advice. This is the simple procedure we follow..." In the same month, Ofcom recorded a further Section Five breach (see case (8)).

Given that the breaches by NTV appeared to indicate an ongoing and systemic compliance failure by the Licensee, Ofcom notified ITCE on 14 April 2014 that it was opening an investigation and requested formal representations on how ITCE had complied with Licence Condition 17(2) in respect of the 10 breaches recorded to date at that time (see cases (1) to (8)). ITCE provided representations on 6 May 2014 ("the May 2014 Representations").

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<sup>1</sup> See above list.

During the course of this Licence Condition 17(2) investigation, Ofcom found further material in breach of the Code which resulted in a total of 10 further breaches being recorded in the period between 6 May 2014 and 8 September 2014 (see cases (9) to (16)). Five of these ten breaches related to material broadcast *after* Ofcom launched its Licence Condition 17(2) investigation on 14 April 2014 (see cases (14) to (16)). On 16 October 2014 Ofcom informed the Licensee that all of the 20 breaches set out in cases (1) to (16) may be relied upon as evidence of non-compliance with Condition 17(2) and provided a further opportunity for ITCE to provide representations on its compliance with Condition 17(2).

Although ITCE provided a response on 29 October 2014 (the “October 2014 Representations”), it did not make any representations on any of the other breaches recorded against the licence, nor did it not provide any supporting compliance guidelines or procedures.

Having regard to the representations received from ITCE and the 20 breaches of the Code recorded in this case, Ofcom formed a Preliminary View in March 2015 proposing a breach of Licence Condition 17(2) and invited ITCE to comment on this.

## **Response**

In summary, Ofcom invited ITCE on three occasions to provide representations setting out how it had fulfilled Licence Condition 17(2). These occasions were in response to:

- Ofcom’s initial investigation (the May 2014 Representations)
- the further breaches recorded against the Licensee after the initial investigation was launched (the October Representations); and
- Ofcom’s Preliminary View, proposing a breach of Licence Condition 17(2), sent in March 2015 (the Preliminary View Representations).

### May 2014 Representations

The Licensee explained that the CEO was responsible for day-to-day compliance decisions for NTV.

However, ITCE confirmed that a new and experienced member of staff (“the Bureau Chief”) had been appointed on 1 May 2014 and compliance decisions would now follow “a two-fold procedure” with the Bureau Chief making compliance decisions with the CEO. The CEO further explained that there were now, as a result of these changes, a total of six members of staff responsible for the compliance of NTV, including the CEO and the Bureau Chief.

ITCE confirmed that all the compliance staff had read the licence conditions, relevant codes and guidance and that they reviewed the Ofcom website “at least once a week” as “a compulsory internal procedure”. The Licensee also provided a document titled “NTV Compliance Procedures”, which consisted of a short summary of the principles behind Section Nine of the Code followed by a verbatim reproduction of the rules set out in Section Nine.

The Licensee also explained that, as NTV was “a small television station”, it tended to keep its operation “simple”. There were no written compliance procedures and, as at 6 May 2014, the Licensee said its compliance procedures were implemented through “internal verbal communications”. ITCE stated that it had “prepared a

guideline for the staff to follow” but “it is yet to develop”. ITCE undertook to provide a copy of this to Ofcom once it was “fully updated”.

### October 2014 Representations

The Licensee did not provide any comments with regard to the more recent breaches and nor did it supply any further supporting compliance guidelines or procedures.

### Preliminary View Representations

ITCE said that it had been “taking some initiatives to conduct several workshops to enlighten our staff in relation to the compliance procedure.”

ITCE also highlighted that after the new compliance team was set up on 1 May 2014, “it can be claimed that things are gradually developing”. In response to Ofcom’s observation that the last three breaches<sup>2</sup> had been recorded in May and June 2014, soon after the establishment of this new compliance team, ITCE argued that the team were “just settling down with every single issue relating to compliance” at this time.

ITCE explained that it had appointed a consultant to “prepare a detailed guideline” but the person “missed several deadlines” and this was why the guideline was not prepared on time. A new consultant had now been appointed and ITCE stated it was “expecting that the detailed guideline will be prepared at the end of the month [March 2015] and we will be able to send it to you accordingly.”

In conclusion, ITCE stated in its Preliminary View Representations that it understood Ofcom’s dissatisfaction about the compliance arrangements and procedures in place. It said it accepted that in the past there had been “systemic problems with [its] compliance procedures” but these had been identified and “will be resolved in a timely manner.” The Licensee therefore requested Ofcom “to allow us some time before imposing any sanction so that we can make things better.” It added that NTV had, in a short period of time, “created a positive impact on British-Bangladeshi diaspora and their social lives.”

## **Decision**

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure a series of standards objectives set out in the Act. These standards are implemented through the rules in the Code and Ofcom’s other codes.

The Act also requires Ofcom to include licence conditions for securing that the standards as set out in the Code are observed in the provision of that service. Licensees must therefore comply with the standards set by Ofcom in the Code.

Licence Condition 17(2) requires licensees to adopt procedures to ensure their programmes comply in all respects with their licence conditions, and ensure that such procedures are observed. In particular, it obliges the licensee to ensure there are enough sufficiently qualified or trained people to ensure compliance, and that they have sufficient seniority to ensure the licensed service complies “in all respects” with the Code.

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<sup>2</sup> See cases (14) to (16) in the list set out in the Introduction

In this case, Ofcom recorded 20 breaches of the Code during the period between April 2013 and September 2014, relating to material broadcast on NTV in the period May 2012 to June 2014. Of the 20 breaches recorded, 15 involved Section Nine of the Code, two involved Sections Five and three involved Section Six. Significantly, five of the breaches recorded against ITCE related to programming broadcast on NTV *after* Ofcom had notified the Licensee of its investigation into ITCE's compliance with Condition 17(2)<sup>3</sup>. Ofcom has also engaged extensively with the Licensee for the purposes of securing its compliance with the Code. In addition to the published breach findings setting out the nature of the breach or breaches in each case and Ofcom's reasons for its findings, Ofcom met with the Licensee on 20 January 2014 to discuss its compliance arrangements and followed this with further email and telephone communications with the Licensee. Ofcom considered that, as a result of this engagement, the Licensee should have been clear about the requirements of the Code and the need for it to have effective procedures in place to comply with those requirements. Ofcom does not provide detailed advice on how licensees should carry out day to day compliance. However, in this case it had suggested to the Licensee measures it could take to address compliance weaknesses, for example: training for compliance staff; ensuring sufficient time and resource is available for compliance procedures and implementing specific written processes for identifying and addressing compliance risks.

In investigating whether ITCE had breached the requirements of Condition 17(2) Ofcom considered the number and repetitiveness of the breaches found against ITCE and the information and evidence provided by it about its compliance procedures. Ofcom assessed the adequacy of ITCE's compliance procedures and noted the following:

- ITCE provided a copy of a document entitled "NTV Compliance Procedures". This document consisted solely of a summary of the main principles of Section Nine of the Code and set out the Section Nine rules. This document did not include any information or guidance added by the Licensee.
- The CEO telephoned Ofcom on 12 March 2014 and said that the compliance procedures at NTV were "simple" and she personally reviewed all content prior to transmission. In a follow up email to Ofcom, the CEO set out NTV's compliance procedures as follows:

"...we try and follow a very simple procedure, when we get a programme proposal I myself [the CEO] sit down with the team and go through the guidelines that our consultant has put together for us and make sure that anything we put on the channel is comply with Ofcom regulations, if I have any confusion I get in touch with out consultant for their advice. This is the simple procedure we follow..."

- ITCE supplied information about the establishment of a new compliance team under the Bureau Chief from 1 May 2014. It also sent an additional copy of the "NTV Compliance Procedures". The Licensee added that:

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<sup>3</sup> Ofcom notified the Licensee that it was investigating Licence Condition 17(2) on 14 April 2014. On 6 May 2014 the Licensee broadcast two programmes in breach of Section Six and Section Nine of the Code and on 3 June 2014 it breached Section Nine of the Code again. See cases (14) to (16).

“at this moment, the compliance procedures and processes are implemented through an internal verbal communications. However, we have prepared a guideline for the staff to follow and it is yet to develop. We will be enclosing it<sup>4</sup> once the guideline is fully updated... We have now made it mandatory for the compliance staff to go through Ofcom website at least once a week and it can be considered as compulsory internal procedure.”

Ofcom noted that as of 1 May 2014 the Licensee had taken some steps to increase its compliance team by appointing an experienced Bureau Chief and six members of staff to provide compliance. Ofcom accepted that the new compliance team was not in post during the time period when the majority of the breaches occurred. However, we noted that after the new team was in place, material continued to be broadcast on the service which resulted in three further breaches of the Code<sup>5</sup>.

In any event, a Licensee is required under Licence Condition 17(2) to have suitable compliance arrangements in place from the point at which a licence is granted. The licence for the service NTV was granted on 31 January 2012 and the first breaches related to material broadcast on 20 May 2012<sup>6</sup>. ITCE went on to breach the Code on 19 further occasions up to and including June 2014 (despite Ofcom continuing to seek reassurances with regard to the Licensee’s compliance arrangements during this time). ITCE’s TLCS licence requires from the point at which the licence is granted that the Licensee has “sufficient persons involved in providing the service” who are “adequately versed in the requirements of the Licence” and that it is “able to ensure compliance with such requirements on a day to day basis”. Ofcom therefore did not accept the Licensee’s position that the new compliance team “were just settling down”, that “things are gradually developing”.

Additionally, Ofcom took into account that despite having invited the Licensee in October 2014 to make further representations six months after the new NTV compliance team had been established, ITCE provided no further documentation setting out the Licensee’s compliance arrangements or procedures. We also noted that when responding to Ofcom’s Preliminary View in March 2015, almost a year after the new compliance team was in place, the Licensee was still unable to provide Ofcom with any evidence of its compliance arrangements or procedures. We noted that the Licensee said it appointed a consultant/lawyer in 2014 to “prepare a detailed [compliance] guideline” but the consultant “missed several deadlines.” In Ofcom’s view, this was not an adequate explanation since ITCE as the Licensee has the responsibility of ensuring its compliance arrangements meet the requirements of Licence Condition 17(2). It should therefore have taken action to secure that this work was carried out and completed in a timely way, and clearly failed to do so.

In reaching our Decision, we took account of the number and nature of the breaches recorded against ITCE. We also carefully reviewed all the evidence provided by the Licensee of its compliance arrangements, as set out above. Ofcom was not satisfied that this evidence was sufficient to demonstrate that the Licensee had adopted procedures to ensure compliance with the Code, and had adopted arrangements to ensure those procedures were observed as required by Condition 17(2). Given the volume of Code breaches recorded against ITCE, Ofcom’s Decision is that these were not isolated failures but resulted from the Licensee’s systemic failure to

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<sup>4</sup> The Licensee had not supplied this to Ofcom as at the date of this Decision.

<sup>5</sup> See cases (14) to (16) in the list set out in the Introduction.

<sup>6</sup> See case (1) in the list set out in the Introduction.

implement adequate compliance procedures, and satisfactory arrangements to ensure they are followed.

Ofcom's Decision was therefore that ITCE was in breach of Licence Condition 17(2) of its licence for NTV. We considered that, despite repeated requests from Ofcom, there was a lack of evidence that the Licensee had taken sufficient steps to put in place adequate compliance arrangements for the purposes of ensuring that all programmes broadcast complied in all respects with the provisions of its TLCS licence. The requirement to have effective arrangements to ensure compliance with licence obligations is fundamental to protecting UK audiences from harm and therefore Ofcom considers a breach of the requirement set out in Condition 17(2) to be serious.

Furthermore, the evidence provided by ITCE to date about its compliance processes has not satisfied Ofcom that the compliance weaknesses at NTV have been adequately addressed by the Licensee. Ofcom noted the Licensee's emphasis on the simplicity of its approach to compliance. Although the Licensee provided evidence that it had increased its compliance team, this did not prevent three further breaches of the Code by ITCE. Ofcom noted the absence of evidence of documented compliance procedures, and the lack of documented guidance by the Licensee for its compliance team on the application of the Code. For these reasons, Ofcom's Decision is that there continues to be a systemic problem with compliance procedures at the NTV service and that there is a material risk that there will be further breaches of the Code unless this is addressed.

**Ofcom is therefore putting the Licensee on notice that it will consider this case for the imposition of a statutory sanction. Further, this breach of Licence Condition 17(2) is so serious that Ofcom is putting the Licensee on notice in this case that revocation of the licence may be recommended as an appropriate sanction.**

**Breach of Licence Condition 17(2)**

## Fairness and Privacy cases

### Upheld

#### Complaint by Mr Musawer Mansoor Ijaz

*Khara Sach, ARY News, 18 February 2014*

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#### Summary

Ofcom has upheld this complaint made by McClure Naismith LLP (“McClure Naismith”) on behalf of Mr Mansoor Ijaz of unjust or unfair treatment in the programme as broadcast.

This programme featured a studio-based discussion about the work of the former Chief Justice of Pakistan, Mr Iftikhar Chaudhary, and this part of the broadcast included a number of allegations about the previous conduct of Mr Mansoor Ijaz, an American venture financier and hedge-fund manager. These allegations included that for example Mr Ijaz had been involved in fraud.

Ofcom found that the broadcaster did not take reasonable care to satisfy itself that the programme did not present, disregard or omit material facts with regard to serious claims made about Mr Ijaz's conduct. As a result, the programme was unfair to him.

#### Introduction and programme summary

ARY News is a television station providing news coverage and information programming to the Pakistani community in the UK.

This magazine programme dealt with a number of different issues and topics. On various specific occasions during the programme comments were made about Mr Mansoor Ijaz, a Pakistani businessman. A transcript in English (translated from the original Urdu) of the full programme broadcast on 18 February 2014 was prepared by an independent translation company for Ofcom. Both parties to the complaint confirmed that the translated transcript accurately represented both the wider programme and the content which related specifically to the complainant, and that they were satisfied that Ofcom could rely on the translated transcript for the purpose of investigating and adjudicating on the complaint.

On the 18 February 2014, ARY News broadcast an edition of *Khara Sach* (translated as “the Plain Truth”), a talk show programme presented by Mr Mubashir Luqman. During a discussion about the work of the former Chief Justice of Pakistan, Mr Iftikhar Chaudhary, the presenter spoke about an investigation by Pakistan’s Supreme Court into the allegation that in May 2011, Pakistan’s ambassador to the United States, Mr Hussein Haqqani, wrote a memorandum asking the US government for help to avert a military takeover of the civilian government in Pakistan in the wake of the US military raid which resulted in the death of Osama Bin Laden<sup>1</sup>.

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<sup>1</sup> In 2012 Pakistan’s Supreme Court conducted an investigation into the allegation that in May 2011, Mr Hussein Haqqani (who was then Pakistan’s ambassador to the United States) wrote a memorandum asking the American government for help to avert a military takeover of the civilian government in Pakistan in the wake of the US military raid which resulted in the death of Osama Bin Laden. Prior to the investigation Mr Ijaz had written an article for the *Financial Times* (published on 10 October 2011) in which he claimed that he had delivered the

During the programme, the presenter discussed the political ramifications of this incident, most notably the fact that: *“Mr Haqqani lost his job and Mr Zardari [the former president of Pakistan] lost the elections”*. He also questioned why the investigation (which he referred to as a *“lawsuit”*) was never *“resolved”*.

Later in the programme, after a discussion about the handling of some other court cases, the presenter introduced a studio guest, Mr Abid Saaqi of the Lahore High Court Bar Association, and spoke about *“what Mr Mansoor Ijaz is doing these days”*.

Mr Luqman said:

*“Mr Mansoor please do not file a suit against me because what I am saying is available on the internet – that you are trying to commit another fraud and you are busy doing a deal with Formula 1 in London [and] Lotus Cars, and to that end, you have formed a company by the name of “Quantum” for which you have not been able to raise financing of \$15 million. Many problems have arisen. Lotus is in trouble. You are in trouble.*

*Then there was a deal you were involved in brokering between the government of Sudan and the American government in which Osama bin Laden was to be handed over to the United States, and that deal did not work out either, and in that you had to pay.*

*You were on contract as analyst with Fox News but that contract too is now gone – finished. You used to make some startling revelations but suddenly those startling revelations are no longer of value. It is said that you also embezzled some money from the Citibank in America.*

*A lot has been happening in this period, praise Allah, but these days Mr Mansoor Ijaz is doing a very interesting job. Yes, he arranges for wrestling between naked women. I cannot show you the full images but I will try to show you a little bit. Watch this first; who else would like to do Mansoor Ijaz’s job? Who would do it? Watch this”.*

Immediately after these comments, the programme showed a video clip of women wrestling in a boxing ring. The images of the women were pixelated. However, despite the pixelation it appeared that the women were wearing bikinis. The same video showed a man sitting in commentary box and seemingly commentating on the contest in English.

The presenter then turned to his guest and asked: *“Am I right or wrong [about these claims about Mr Ijaz]?”* to which Mr Saaqi said: *“You are correct”*.

The presenter then asked Mr Saaqi if it was correct *“that [General] Kiyani’s brother<sup>2</sup> and Mansoor Ijaz had a deal worth a few million dollars and when the deal ended they quarrelled between themselves...”*. Mr Saaqi said that he did not have *“any*

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memorandum at the behest of President Zardari (who was the president of Pakistan at the time). The incident and the investigations and claims surrounding it became known as “Memogate”.

<sup>2</sup> General Kayani, now retired, was the Commander-in-Chief of the Pakistan Army between November 2007 and November 2013. He appeared as a witness in the Pakistan Supreme Court hearing into the memorandum incident involving Mr Hussein Haqqani (see above).

*direct evidence about it but it ha[d] been heard that they had commercial interests on the basis of which a deal was done”.*

The programme also included a telephone conversation between the presenter and Mr Haqqani. During this conversation, Mr Haqqani defended himself against the allegation that he had been involved in the incident regarding the memorandum. He said that the allegations against him “*were levelled by just one man [i.e. Mr Ijaz]”* but that he had “*disappeared somewhere”*.

Afterwards, the presenter said:

*“There is an allegation against him [Mr Ijaz] that after 1990 he offered [his services] to the Clinton Administration [saying] that he could play an active role regarding Pakistan’s nuclear programme because several heads of Pakistan’s nuclear installations were either his [father’s] friends or had been his [father’s] class-fellows. Then he wrote a four-page long letter to Benazir Bhutto [the late prime minister of Pakistan], against General Ali Kuli Khan and Mr Yusuf Haroon. These [two] are very respectable men and I honour them a lot. Then, writing in American newspapers, he [Mr Ijaz] threw dirt at Pakistani Government and senior leaders. ...I understand that we are told that he is a highly respectable and trustworthy man [as opposed to] the Pakistani Ambassador [Mr Haqqani] [who] is not trustworthy”.*

Turning to Mr Haqqani, the presenter added:

*“Although I have strong objections at many things about you – I am saying this to you on air – on many things, I disagree with you but I am speaking about the nature of the character of this man [Mr Ijaz] – it is proven that this man is a liar and yet, why so much value was placed on him [upon his testimony against Ambassador Haqqani]?”*

Mr Haqqani responded by saying that the investigation was politically motivated. He added that:

*“The truth is that though Mr Mansoor Ijaz levelled an allegation [against me] he was never able to prove it. Those to whom he had sent the Memo said that they did not receive it and if they did receive it, they said that it was from Mr Mansoor Ijaz – not from anyone else.*

*After all was done and dusted, it should have been explicit that declaring your own ambassador a traitor on the basis of the statement of an unreliable man [Mr Ijaz] would not enhance the prestige and honour of Pakistan”.*

Mr Haqqani also said that “*they [the Pakistani authorities at the time] made a man [Mr Ijaz] stand up and put on a show [i.e. make the allegations regarding the memorandum against Mr Haqqani]”*. He added:

*“He [Mr Ijaz] arranges for naked wrestling matches and showed his drama in the courtroom too while sitting abroad. Thousands of dollars or pounds were spent to enable him to relay his statement [to the Supreme Court] via video link from London. It has never happened in any lawsuit before [or] after this. The legal procedure for testifying in the courts in Pakistan is that the witness presents himself to the court. The witness testifies and is then cross-examined”.*

## Summary of the complaint and the broadcaster's response

In summary, on behalf of Mr Mansoor Ijaz, his solicitors, McClure Naismith complained that Mr Ijaz was treated unjustly or unfairly in the programme as broadcast because material facts about or related to Mr Ijaz were presented, disregarded or omitted in a manner which gave viewers an unfair impression of him. In particular, McClure Naismith said that the programme included unfair misrepresentations and "malicious" factual inaccuracies, and repeatedly referred to Mr Ijaz "committing fraud or being engaged in other criminal or unscrupulous acts".

The following sections of the programme were illustrative of the material that McClure Naismith said resulted in unfairness to Mr Ijaz:

- The claim that Mr Ijaz was in the process of committing "*another fraud*" with regard to his business relationship with the Lotus Formula One team ("Lotus"). Mr Ijaz acknowledged that the deal between Quantum<sup>3</sup> and Lotus required restructuring but said that the programme was wrong to say that Quantum was unable to raise the necessary finance or that the deal "was somehow dead". He added that the level of finance required had never been disclosed and therefore the programme's reference to a figure of \$15 million had no basis in fact.
- The reference to a claim that Mr Ijaz stole funds from Citibank. Mr Ijaz said that it was "a flat lie" that he had embezzled funds from this bank.
- The claim that, at the time of the broadcast, Mr Ijaz was working as a commentator for nude female wrestling matches. Mr Ijaz said the footage of him commentating on such matters and included in ARY News was recorded for a music video and used out of context. He added that he had successfully sued the musician in question for the mis-use of that footage - namely, its use in X-rated videos.

By way of background, McClure Naismith said that Mr Ijaz considered that the allegations made against his business interests in the UK caused "great [and] potentially irreversible harm to him and his financial interests".

In response to the complaint, ARY News submitted to Ofcom a selection of news reports or articles about Mr Ijaz's business and political activities which it said "provide[d] substantiation for the points made [about Mr Ijaz] in the *Khara Sach* programme". The broadcaster argued that the programme did not result in unfair or unjust treatment of Mr Ijaz because the presenter referred to the reports of Mr Ijaz's activities which "had been checked with information available in the public domain". Relevant sections of the reports provided to Ofcom by the broadcaster are referred to in the "Decision" section below.

## Representations on Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that Mr Ijaz's complaint should be upheld.

Both parties were given the opportunity to make representations on the Preliminary View. ARY News chose not to make any representations. However, McClure

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<sup>3</sup> Quantum Motorsports is an Investment Partnership owned jointly by Crescent Investment Management LLC (which is operated by Mr Ijaz) and Al Manhal International Group LLC.

Naismith provided Ofcom with a number of points relevant to Mr Ijaz's complaint which are summarised below.

#### *Quantum-Lotus Formula 1 Transaction*

McClure Naismith said that the Preliminary View did not give sufficient weight to publicly available evidence that the size of the transaction was valued at approximately €120 million. It said that this data was readily available, but had been "completely ignored in analysing the irresponsibility of the broadcaster's research [in] this section [of the decision]". It argued that broadcast of the relevant element of the programme damaged Mr Ijaz by ridiculing him for not being able to raise \$15 million when the transaction was worth nearly ten times that amount and, notwithstanding the restructuring of the deal due to international banking and regulatory constraints (factors which were widely reported), the funds were not only raised but paid to the recipient.

#### *BSI*

McClure Naismith said that the Preliminary View did not give sufficient weight to an article published in *The News* on 20 February 2012<sup>4</sup> which said that Judge Ramos had not made a finding of fraud against Mr Ijaz in this case.

McClure Naismith said that the court case was concerned with determining if it was appropriate for Mr Ijaz to be sued in New York State; that Mr Ijaz had rebutted all the claims made about him in the court and that Judge Ramos' findings did not support the bank's claims about him. Specifically, McClure Naismith said that Ofcom's Preliminary View did not give sufficient weight to the fact that "there was never a finding of fraud against [Mr Ijaz] nor a judgment in favor of any such claim". It said that after Judge Ramos allowed the case to proceed, the parties agreed to a financial settlement at a figure that was "far less than was claimed by the bank".

It added that it was therefore factually incorrect for Ofcom to state that there was ever a judgment against Mr Ijaz which found he was guilty of fraud and that this statement must be corrected<sup>5</sup>.

#### *Citibank*

McClure Naismith also said the claim in the article published in *International The News* on 19 February 2012 (i.e. one of the article's on which the broadcaster had relied) that: "Citibank also has a judgment against him [Mr Ijaz] for a relatively small amount of \$16,021" was a "factually erroneous statement". It added that Mr Ijaz had never had a judgment against him in regard to Citibank; he had never borrowed money from Citibank and he had not held an account with Citibank in his own name until 2012.

### **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

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<sup>4</sup> <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=12589&Cat=13&dt=2/20/2012>

<sup>5</sup> The Preliminary View did not state that there was a judgment against Mr Ijaz indicating that he was guilty of fraud. Rather, it noted that a specific newspaper article alleged that this was the case.

and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

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

In reaching this decision, Ofcom carefully considered all the relevant material provided by both parties. This included: a recording of the programme as broadcast; an independently-sourced transcript of the full programme (translated from the original Urdu into English) which both parties confirmed accurately represented both the wider programme and the content which related specifically to the complainant; both parties' written submissions; and, video footage of Mr Ijaz commentating on a women's wrestling match which was available via the internet<sup>6</sup>. Ofcom also took careful account of the representations made by the complainant in response to Ofcom's Preliminary View.

Ofcom considered the complaint that Mr Ijaz was treated unjustly or unfairly because material facts about or related to him were presented, disregarded or omitted in a manner which gave viewers an unfair impression of him. When assessing the complaint, Ofcom had regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). We also took account of Practice 7.9 of the Code which provides that before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to the individual or organisation.

The broadcaster and the complainant disagreed about the veracity of several claims involving Mr Ijaz made in the programme. It is important to clarify at the outset that it is not for Ofcom to investigate and adjudicate on whether information broadcast or omitted is factually correct or not. Rather, our role is to decide whether the inclusion or omission of the information amounted to unjust or unfair treatment of an individual or organisation. To reach a decision on this issue in this case, we first considered each part of the complaint made on Mr Ijaz's behalf in turn, and then all the sections of the programme which referred to Mr Ijaz as a whole, to reach an overall view as to whether or not he was treated unfairly in the programme as broadcast.

- We began by assessing the complaint that the claim in the programme that Mr Ijaz was in the process of committing "*another fraud*" with regard to his business relationship with the Lotus resulted in unfairness to him. Mr Ijaz acknowledged that the deal between Quantum and Lotus required restructuring but said that the programme was wrong to say that he was committing "*another fraud*", that Quantum was unable to raise the necessary finance or that the deal "was somehow dead". He added that the level of finance required had never been disclosed and therefore the programme's reference to a figure of \$15 million had no basis in fact.

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<sup>6</sup> [http://www.dailymotion.com/video/x2fjfd\\_junior-jack-stupidisco-non-censure\\_music](http://www.dailymotion.com/video/x2fjfd_junior-jack-stupidisco-non-censure_music)

As set out in the “Introduction and Programme Summary” section above, the programme included the presenter addressing the following comment to Mr Ijaz (in the apparent belief that he might be watching the programme):

*“you are trying to commit another fraud and you are busy doing a deal with Formula 1 in London [and] Lotus Cars, and to that end, you have formed a company by the name of “Quantum” for which you have not been able to raise financing of \$15 million. Many problems have arisen. Lotus is in trouble. You are in trouble”.*

In our opinion, viewers would have understood this first part of this commentary to have indicated that the programme was claiming that Mr Ijaz was in the process of trying to commit a fraud and, that he had previously committed a fraud in relation to an unspecified person or organisation. We noted that the comment about Mr Ijaz doing a deal with Formula 1 was separated from the earlier comment about fraud by the use of the word “and” between the two comments. Given the close juxtaposition of these comments, we considered that it was possible that some viewers might have connected the claim that Mr Ijaz was in the process of committing a fraud with the deal that he was negotiating with Formula 1. However, the presenter did not explicitly state that this was the case.

In response to the complaint, the broadcaster provided Ofcom with copies of reports which it said substantiated the claims made about Mr Ijaz. We assessed these news reports and noted they included a number of comments that could be seen to relate to the claims set out above.

As set out above, we noted that Mr Ijaz did not dispute that he was involved in negotiating a deal with Lotus and that the deal needed to be restructured. We also noted that one of the reports provided to Ofcom by the broadcaster (an article from Autosport.com website published on 17 January 2014) stated that “the failure to complete [the original] deal - caused by banking complications and the difficulties in bringing together the numerous backers - led Ijaz to conclude that the original investment structure was unworkable”. It went on to talk about efforts Quantum (the consortium managed by Mr Ijaz) was making to restructure the deal.

Mr Ijaz said that there was no basis for the claim in the programme that he had been unable to raise \$15 million of financing needed for Quantum to make the proposed deal with Lotus. From the information provided to Ofcom by the broadcaster, the source of the specific figure allegedly required by Quantum (\$15 million) was unclear. However, the report mentioned above referred to (and Mr Ijaz has acknowledged), the original deal with Lotus not being completed because of difficulties securing the appropriate financial backing. We noted that the original complaint did not set out how, even if the claim that Mr Ijaz was unable to raise \$15 million dollars to finance the deal with Lotus was erroneous, the inclusion of the \$15 million figure resulted in unfairness to Mr Ijaz. However, in response to Ofcom’s Preliminary View, McClure Naismith said that in making this claim the programme had ridiculed Mr Ijaz because the relevant transaction (which it said was subsequently completed) was worth nearly ten times this amount).

Ofcom noted that none of the reports provided by the broadcaster included references to Mr Ijaz attempting to commit a fraud, either with regard to the deal he was negotiating with Lotus or in connection with any other person or body, at the time the programme was broadcast. Nor did the broadcaster submit

information indicating that the programme makers had gathered evidence to support this claim prior to including it in the programme.

Several of the articles provided to Ofcom reported on a court judgment against Mr Ijaz in a case concerning the non-repayment of a loan made to two of Mr Ijaz's companies (Ijaz Group and Aquarius) by Banco Sammarinese di Investimento ("BSI") of San Marino. For example, on 28 February 2012 the Pakistan News Service website published an article which said that *The Hindu* (an English-language daily newspaper published in India) had reported that:

"in a September 25, 2010 judgement, Judge Charles Ramos<sup>7</sup> ruled in favour of BSI, and Ijaz agreed to settle by repaying the bank \$1.74 million. Peter Kurchen, the bank's attorney, says he is yet to do so. 'Given that he has not voluntarily satisfied the judgment in the past two years we are forced to commence enforcement action,' he said".

An article about the same story, published on 19 February 2012 by *International The News* (a Pakistan-based newspaper owned by the Jang group), said the following:

"The charge that most hurt Mansoor Ijaz's credibility was that 'Ijaz used control and domination over the Ijaz Group and Aquarius to (1) commit fraud and (2) to breach his legal duty and the legal duty of the controlled corporations to repay all monies due to the bank by such corporations.' The bank, located in the tax haven of San Marino in Europe, said that Mansoor Ijaz's representation to the bank was 'false, wilful, fraudulent and intended for BSI to rely on it'".

It added that:

"Judge Charles Ramos ordered in favour of the plaintiffs after the parties 'agreed to entry of judgement in favour of plaintiff' and ordered Mansoor Ijaz to pay \$1,474,000 to BSI".

However, we also noted that McClure Naismith said that the Preliminary View did not give sufficient weight to an article published in *The News* on 20 February 2012<sup>8</sup> which said that Judge Ramos had not made a finding of fraud against Mr Ijaz in this case. The article in question said that:

"The News has learned exclusively that in the final judgment passed by the Supreme Court of the State of New York County Judge Charles E Ramos, there was never any mention of fraud or nor any wrongdoing on the part of Ijaz".

It also said:

"The two pages Court Consent Order, the copies of which have been seen by The News, show that a simple demand for repayment of an amount far less than what the bank demanded was entered into the record without any other finding and the matter was settled out of court. Such cases in the west against corporate companies are a routine occurrence".

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<sup>7</sup> A judge of the New York County Supreme Court.

<sup>8</sup> <http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=12589&Cat=13&dt=2/20/2012>

In addition, we observed that Mr Ijaz's own recollections (as set out by McClure Naismith in response to the Preliminary View) matched the information provided in this article. He recalled that that Judge Ramos' findings did not support the bank's claims about him and that "there was never a finding of fraud against him, nor a judgment in favor of any such claim". He also said that after Judge Ramos allowed the case to proceed, the parties agreed to a financial settlement at a figure that was "far less than was claimed by the bank".

In its response to the complaint, ARY News said that the reports of Mr Ijaz's activities referred to in the programme "had been checked with information available in the public domain". However, the broadcaster neither identified which information from the reports was checked nor specified the sources against which it was checked.

We considered that the claims made in the programme in relation to Mr Ijaz having committed and attempting to commit fraud were serious in nature and therefore that their inclusion had the potential to result in unfairness to Mr Ijaz.

Taking account of all the factors noted above (and on the basis of the information available to Ofcom), we considered that the inclusion of the claim in the programme that that Mr Ijaz had previously committed a fraud in relation to an unspecified person or organisation resulted in unfairness to him. This was because, although prior to making this claim the programme makers appear to have been aware of reports that a court of law in New York had found against Mr Ijaz in a claim made against him for committing fraud and failing to repay loans by the BSI, on the information available, they do not appear to have taken reasonable steps to verify the news reports on which they relied. In particular, it appears that the programme makers did not access publicly available information regarding the court judgment in relation to the BSI claim against companies operated by Mr Ijaz – information which Ofcom understood indicated that Judge Ramos did not find that Mr Ijaz had committed fraud with regard to his business relationship with BSI.

We also considered that the inclusion of the separate claim in the programme that Mr Ijaz was attempting to commit "*another fraud*" at the time of the broadcast resulted in unfairness to Mr Ijaz. This was because, however brief (as here), an allegation of fraud is serious, as it involves criminal dishonesty, and in this case none of the material submitted to Ofcom by the broadcaster indicated that the programme makers had information to substantiate this claim prior to broadcasting it. Nor did the presenter attempt to place the allegation in context, nor did the programme set out any response by Mr Ijaz to the claim.

For these reasons, we concluded the programme makers did not have a reasonable and credible basis for the inclusion of these claims in the programme and that the broadcaster had not taken reasonable care to satisfy itself that, in relation to these claims, material facts were not presented, disregarded or omitted in a way that portrayed Mr Ijaz unfairly.

- We next assessed the complaint that the claim in the programme that Mr Ijaz stole funds from Citibank resulted in unfairness to him because it was "a flat lie" to say that he had embezzled funds from this bank.

As set out above, the presenter said: "*It is said that you [i.e. Mr Ijaz] also embezzled some money from the Citibank in America*".

As before, we considered that this claim was serious in nature and therefore its inclusion in the programme had the potential to result in unfairness to Mr Ijaz.

We noted that as well as discussing Judge Ramos' judgment against Mr Ijaz and other alleged financial difficulties, the article published in *International The News* on 19 February 2012 said that: "Citibank also has a judgment against him [Mr Ijaz] for a relatively small amount of \$16,021." However, we also noted that in response to the Preliminary View, McClure Naismith said that Mr Ijaz had never had a judgment against him in regard to Citibank and that he had never borrowed money from Citibank.

The reports provided by the broadcaster included no other references to Citibank or to any connection between it and Mr Ijaz. Nor did the broadcaster indicate that the programme makers had checked the claim that Mr Ijaz had embezzled money from Citibank prior to or after allowing Mr Luqman to broadcast it, or what sources they had relied on.

In our opinion, the reference in the *International The News* article to Citibank having "a judgment against" Mr Ijaz indicated only that Mr Ijaz owed the bank the sum of \$16,021. The word used by Mr Luqman ("*embezzled*") however means to steal or misappropriate.

In our view, the information in the report did not support a claim that Mr Ijaz either stole or misappropriated money from Citibank. Rather, it appeared to us to indicate that he owed Citibank money and that the bank had successfully made a legal claim for repayment of this money.

We also observed that in its response to the complaint the broadcaster did not indicate that the programme makers had established that Mr Ijaz had borrowed money from Citibank and had a judgment against in relation to alleged non-payment of this loan (and as noted above, Mr Ijaz denied this was the case). Neither did it indicate that the programme makers had checked the claim that Mr Ijaz had "*embezzled*" money from Citibank prior to or after allowing Mr Luqman to broadcast it, or say what sources they had relied on. Nor did the presenter attempt to place the claim in context, nor did the programme set out any response by Mr Ijaz to this allegation.

For these reasons we considered that the programme makers did not have a reasonable and credible basis for the inclusion of this claim in the programme and that the broadcaster had not taken reasonable care to satisfy itself that, in relation to this claim, material facts were not presented, disregarded, or omitted in a way that portrayed Mr Ijaz unfairly. We therefore concluded that the broadcast of this claim in the programme in the circumstances of this case resulted in unfairness to Mr Ijaz.

- We next assessed the complaint that the claim in the programme that, at the time of the broadcast, Mr Ijaz was working as a commentator for nude female wrestling matches resulted in unfairness to him.

As set out above, before showing a video clip of women wrestling in a boxing ring, which included footage of a man in commentary box (that appeared to be close to the boxing ring) commentating on the contest in English the presenter said: "*these days Mr Mansoor Ijaz is doing a very interesting job. Yes, he arranges for wrestling between naked women*".

Later on, the presenter said: "*these days he [Mr Ijaz] arranges wrestling [matches] between naked women and has been [seen] doing a commentary about it*".

In addition, Mr Haqqani (Pakistan's former ambassador to the United States, who contributed to the programme via telephone) said: "*He [Mr Ijaz] arranges for naked wrestling matches...*".

In the complaint, it was acknowledged that Mr Ijaz had appeared in the relevant footage. However, it was explained that the footage had been recorded for a music video and was used out of context. It was also explained that Mr Ijaz had successfully sued the musician in question for the misuse of that footage - namely, in X-rated videos.

One of the news reports provided to Ofcom by the broadcaster mentioned this footage.

On 22 February 2012, the BBC News website published a profile of Mr Ijaz which included the following comments<sup>9</sup>:

"Soon after the 'memogate' row erupted eyebrows were raised when video emerged of him [Mr Ijaz] commentating for a mostly near-naked female wrestling bout in the US in 2004".

Later, the profile went on to say:

"But it could be that his [Mr Ijaz's] credibility has already been seriously undermined by the 'bootygate' tape.

Mr Ijaz has told the Associated Press the wrestling video was not a hoax, but he was convinced its sudden emergence was part of an effort to discredit him.

According to Mr Ijaz, he was unaware he would feature in a version of the video that contained full nudity, and he only agreed to appear on it 'as a favour for my wife's best friend when the scheduled actor did not show up'".

On the information available, it appeared to Ofcom that:

- Mr Ijaz was the man shown in the relevant footage;
- the footage was recorded in 2004;
- Mr Ijaz provided commentary for the wrestling match in the footage; and,
- prior to its inclusion in the programme Mr Ijaz had publicly stated that when he agreed to take part in the recording of the footage he was unaware that it would include woman who were entirely unclothed<sup>10</sup>.

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<sup>9</sup> <http://www.bbc.co.uk/news/world-asia-16649034>

<sup>10</sup> As noted above, the images of the female wrestlers in the footage shown in the programme were pixelated but it appeared to Ofcom that these women were wearing bikinis. We observed that while the programme did not show the female wrestlers without any clothing, another version of the video, in which the female wrestlers were naked, is available on the internet.

Given this, it was clear to us that the *Khara Sach* programme complained about erroneously implied that the footage had been recorded recently and that it showed Mr Ijaz undertaking his "job" which was described as arranging nude women's wrestling matches. As a result, in our opinion the claim that Mr Ijaz arranged nude women's wrestling matches (either in the past or around the time of the broadcast) had the potential to materially and adversely affect his reputation, especially in the context of the more traditional and conservative values of an Islamic country like Pakistan.

However, Mr Ijaz did contribute to a video, which included bikini-clad, if not naked, women wrestling each other, and, as the footage included in the programme showed, he took the role of a ring-side commentator for this wrestling match. In addition, Mr Ijaz's commentary included references to the fact that he was watching a women's wrestling match and that the two contestants in the match were known as "Double D" and "Nasty Nancy".

In our opinion, the main purpose of both versions of the video (i.e. the one in which the female contestants were wearing bikinis which was included in the programme and the other one in which they were naked) was the sexual objectification of the women who featured in it. We consider that this would have been clear to Mr Ijaz from his commentary – regardless of whether he actually saw the female contestants when recording his contribution and whether they were naked or clad in bikinis, and his motive for taking part.

Taking account of all the factors set out above, we concluded that the inclusion of this footage and the comments made about it in the programme, were unlikely to have materially and adversely affected viewers' understanding of Mr Ijaz's behaviour in a way that resulted in unfairness to him.

Ofcom had concerns about the accuracy of several aspects of the journalism in this programme. We took the view that, although the programme makers appeared to have considered some newspaper articles relating to Mr Ijaz's activities they had not either gathered sufficient evidence to support or taken appropriate steps to verify the most serious claims made in the programme about Mr Ijaz - most notably that he had committed fraud at some time prior to the broadcast; that he had attempted to commit "another fraud" at or around the time of the broadcast and that he had "embezzled" money from Citibank.

For these reasons, we considered that as regards each of these elements of the complaint, the broadcaster failed to take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Ijaz.

Ofcom also carefully assessed the parts of the programme relating specifically to Mr Ijaz as a whole, to reach a view as to whether the sections of the programme which referred or related to him were in their entirety unfair. We evaluated whether the various examples taken together created a cumulative effect that might portray Mr Ijaz in a way that was unfair and whether this resulted in unfairness to him. In particular, we noted that prior to the broadcast of the programme the programme makers appeared to have gathered no evidence to substantiate three very serious claims made about Mr Ijaz in the programme – i.e. the claims relating to fraud, attempted fraud and embezzlement on his part. We also noted that nowhere in the sections of the programme which referred to the complainant, did the presenter attempt to place the three main claims against Mr Ijaz in context, nor did the programme set out any response by Mr Ijaz to these claims.

After careful consideration, and for all the reasons set out above, Ofcom found that, when taken as a whole, the portrayal of Mr Ijaz in the programme as broadcast resulted in unfairness to him.

**Therefore, Ofcom has upheld Mr Ijaz's complaint of unjust or unfair treatment in the programme as broadcast.**

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 3 and 17 March 2015 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
NCIS	CBS Action	30/11/2014	Scheduling
Rush Hour	Channel 5	04/01/2015	Race discrimination/offence
Advertising minutage	Sikh Channel	24/12/2014	Advertising minutage

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

### Investigations conducted under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed service	Categories
Angel Radio Limited	Angel Radio	Key Commitments
Nation Radio Ltd	Nation Radio	Format

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

## Complaints Assessed, Not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 3 and 16 March 2015 because they did not raise issues warranting investigation.

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

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

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Benefits Britain: Life on the Dole	5*	11/02/2015	Under 18s in programmes	1
Sky Sports' sponsorship of Absolute Radio	Absolute Radio	26/01/2015	Commercial communications on radio	1
The Frank Skinner Show	Absolute Radio	21/02/2015	Age discrimination/offence	1
Raceday Live	Attheraces	18/02/2015	Offensive language	1
Babestation	Babestation	18/02/2015	Sexual material	1
Programming	Babestation	05/03/2015	Sexual material	1
Babestation Xtra	Babestation Xtra	18/02/2015	Generally accepted standards	1
BBC News	BBC 1	Various	Due impartiality/bias	1
BBC News at Six	BBC 1	20/02/2015	Violence and dangerous behaviour	2
BBC News at Six	BBC 1	10/03/2015	Due impartiality/bias	2
BBC News at Six	BBC 1	12/03/2015	Due impartiality/bias	3
BBC News at Ten	BBC 1	10/03/2015	Due impartiality/bias	1
Breakfast	BBC 1	13/02/2015	Generally accepted standards	1
Comic Relief – Face the Funny	BBC 1	13/03/2015	Outside of remit / other	1
Countryfile	BBC 1	15/02/2015	Scheduling	1
EastEnders	BBC 1	10/02/2015	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 1	12/02/2015	Drugs, smoking, solvents or alcohol	3
EastEnders	BBC 1	19/02/2015	Information/warnings	1
EastEnders	BBC 1	19/02/2015	Scheduling	1
EastEnders	BBC 1	20/02/2015	Generally accepted standards	1
EastEnders	BBC 1	02/03/2015	Generally accepted standards	1
EastEnders	BBC 1	15/03/2015	Generally accepted standards	1
EastEnders (trailer)	BBC 1	Various	Violence and dangerous behaviour	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
EastEnders Omnibus	BBC 1	31/01/2015	Under 18s in programmes	1
Inside Out	BBC 1	06/03/2015	Due impartiality/bias	1
Inside Out	BBC 1	06/03/2015	Violence and dangerous behaviour	1
Regional News and Weather	BBC 1	10/03/2015	Generally accepted standards	1
Six Nations Rugby Union	BBC 1	14/03/2015	Generally accepted standards	1
The Casual Vacancy	BBC 1	15/02/2015	Sexual material	1
The Casual Vacancy	BBC 1	01/03/2015	Due impartiality/bias	1
The Casual Vacancy	BBC 1	01/03/2015	Offensive language	1
The Graham Norton Show	BBC 1	06/03/2015	Religious/Beliefs discrimination/offence	1
The Musketeers	BBC 1	20/02/2015	Generally accepted standards	1
The Voice UK	BBC 1	28/02/2015	Race discrimination/offence	1
The Voice UK	BBC 1	28/02/2015	Religious/Beliefs discrimination/offence	2
WPC 56	BBC 1	09/03/2015	Scheduling	1
Nolan Live	BBC 1 Northern Ireland	11/02/2015	Disability discrimination/offence	2
Sportscene	BBC 1 Scotland	01/02/2015	Religious/Beliefs discrimination/offence	3
Banished	BBC 2	05/03/2015	Offensive language	1
Modern Times	BBC 2	15/02/2015	Generally accepted standards	1
Nurse	BBC 2	10/03/2015	Due impartiality/bias	1
Some Mothers Do 'Ave 'Em	BBC 2	02/03/2015	Disability discrimination/offence	1
The Daily Politics	BBC 2	16/03/2015	Due impartiality/bias	1
The Great British Sewing Bee	BBC 2	26/02/2015	Generally accepted standards	1
Top Gear	BBC 2	22/02/2015	Materially misleading	1
Top Gear	BBC 2	22/02/2015	Race discrimination/offence	1
Top Gear	BBC 2	22/02/2015	Violence and dangerous behaviour	4
Top Gear	BBC 2	01/03/2015	Generally accepted standards	1
Wolf Hall	BBC 2	18/02/2015	Offensive language	2
Russell Howard's Good News	BBC 3	04/03/2015	Generally accepted standards	1
Top Gear	BBC 3	19/02/2015	Generally accepted standards	1
Top Gear	BBC 3	28/02/2015	Violence and dangerous behaviour	1
A Horizon Guide: The Mystery of Murder	BBC 4	09/03/2015	Generally accepted standards	1
Storyville: The Great European Disaster Movie	BBC 4	01/03/2015	Due impartiality/bias	11

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
BBC News	BBC News Channel	07/03/2015	Due impartiality/bias	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	13/02/2015	Scheduling	1
The Chris Evans Breakfast Show	BBC Radio 2	04/02/2015	Generally accepted standards	1
The News Quiz	BBC Radio 4	06/03/2015	Gender discrimination/offence	1
The News Quiz	BBC Radio 4	13/03/2015	Offensive language	1
Today	BBC Radio 4	04/03/2015	Due impartiality/bias	1
5 Live Sport	BBC Radio 5 Live	11/03/2015	Generally accepted standards	1
Steve Nolan Show	BBC Radio 5 Live	08/03/2015	Generally accepted standards	1
Sally Naden and Brett Davison	BBC Radio Lancashire	23/02/2015	Age discrimination/offence	1
BBC News	BBC Radio Scotland	Various	Generally accepted standards	1
Sunday Sequence	BBC Radio Ulster	22/02/2015	Scheduling	1
Iain Lee	BBC Three Counties Radio	06/03/2015	Outside of remit / other	1
Iain Lee	BBC Three Counties Radio	12/03/2015	Outside of remit / other	1
BBC News	BBC website	26/02/2015	Outside of remit / other	1
BBC News	BBC World Service	13/03/2015	Outside of remit / other	1
Health Check	BBC World Service	08/02/2015	Due impartiality/bias	1
Shongbad Nirrokkan	Betar Bangla	10/01/2015	Due accuracy	1
Live Scottish Professional Football League	BT Sport 1	20/02/2015	Religious/Beliefs discrimination/offence	5
Toby Tarrant	Capital Yorkshire	08/03/2015	Scheduling	1
Advertisement	Channel 4	02/03/2015	Advertising content	1
Advertisement	Channel 4	08/03/2015	Advertising content	1
Channel 4 News	Channel 4	20/01/2015	Due accuracy	1
Channel 4 News	Channel 4	01/02/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	11/02/2015	Due impartiality/bias	1
Channel 4 News	Channel 4	13/02/2015	Generally accepted standards	1
Channel 4 News	Channel 4	16/02/2015	Race discrimination/offence	1
Channel 4 News	Channel 4	19/02/2015	Religious/Beliefs discrimination/offence	9
Channel 4 News	Channel 4	26/02/2015	Generally accepted standards	1
Channel 4 News	Channel 4	10/03/2015	Due accuracy	1
Crufts 2015	Channel 4	08/03/2015	Animal welfare	1
Cucumber	Channel 4	26/02/2015	Information/warnings	1
Cucumber	Channel 4	26/02/2015	Sexual material	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Cucumber	Channel 4	26/02/2015	Violence and dangerous behaviour	5
Cucumber	Channel 4	12/03/2015	Sexual material	4
Drugs Live: Cannabis on Trial	Channel 4	03/03/2015	Drugs, smoking, solvents or alcohol	1
Drugs Live: Cannabis on Trial	Channel 4	03/03/2015	Materially misleading	4
Everybody Loves Raymond	Channel 4	13/03/2015	Outside of remit / other	1
Immigration Street	Channel 4	24/02/2015	Generally accepted standards	13
Immigration Street	Channel 4	24/02/2015	Race discrimination/offence	1
Live: Superbowl (trailer)	Channel 4	05/01/2015	Gender discrimination/offence	1
NHS: £2 Billion a Week and Counting	Channel 4	23/02/2015	Due impartiality/bias	1
Advertisement	Channel 5	05/03/2015	Advertising content	1
Benefits Britain: Life on the Dole	Channel 5	16/02/2015	Crime	2
Benefits Britain: Life on the Dole	Channel 5	04/03/2015	Race discrimination/offence	1
Celebrity Big Brother	Channel 5	Various	Voting	1
GPs: Behind Closed Doors	Channel 5	04/02/2015	Disability discrimination/offence	9
My Daughter Stole My Husband	Channel 5	16/02/2015	Offensive language	1
The Wright Stuff	Channel 5	11/02/2015	Gender discrimination/offence	1
World's Biggest Hips	Channel 5	18/02/2015	Generally accepted standards	1
The Munch Box	CITV	07/03/2015	Generally accepted standards	1
Super Scoreboard	Clyde 1	21/02/2015	Generally accepted standards	6
Crossbenchers	CSR	06/03/2015	Due impartiality/bias	1
QI XL	Dave	24/02/2015	Race discrimination/offence	1
No Place Like Home	Drama	26/01/2015	Race discrimination/offence	1
Banana (trailer)	E4	27/02/2015	Scheduling	1
Banana (trailer)	E4	Various	Scheduling	1
Jirga	Geo News	17/12/2014	Crime	1
Subh-e-Pakistan	Geo TV	29/12/2014	Religious/Beliefs discrimination/offence	1
Subh-e-Pakistan	Geo TV	29/12/2014	Religious/Beliefs discrimination/offence	1
Programming	Holiday and Cruise Channel	09/01/2015	Materially misleading	1
Advertisement	Ideal World	05/03/2015	Advertising content	1
Advertisement	ITV	04/03/2015	Advertising content	1
Advertisement	ITV	08/03/2015	Advertising content	2
Advertisement	ITV	11/03/2015	Advertising content	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Advertisement	ITV	13/03/2015	Advertising content	1
Advertisement	ITV	15/03/2015	Advertising content	1
Advertisement	ITV	16/03/2015	Advertising content	1
Advertisement	ITV	Various	Advertising content	1
Ant and Dec's Saturday Night Takeaway	ITV	21/02/2015	Competitions	1
Ant and Dec's Saturday Night Takeaway	ITV	21/02/2015	Generally accepted standards	2
Ant and Dec's Saturday Night Takeaway	ITV	07/03/2015	Animal welfare	2
Arthur and George	ITV	02/03/2015	Outside of remit / other	2
Bear Grylls: Mission Survive	ITV	13/03/2015	Generally accepted standards	1
Broadchurch	ITV	09/02/2015	Materially misleading	1
Coronation Street	ITV	20/02/2015	Disability discrimination/offence	1
Coronation Street	ITV	20/02/2015	Generally accepted standards	1
Coronation Street	ITV	23/02/2015	Violence and dangerous behaviour	1
Coronation Street	ITV	02/03/2015	Promotion of products/services	1
Coronation Street	ITV	13/03/2015	Generally accepted standards	1
DCI Banks	ITV	04/03/2015	Generally accepted standards	1
Emmerdale	ITV	11/12/2014	Disability discrimination/offence	1
Emmerdale	ITV	12/02/2015	Under 18s in programmes	1
Emmerdale	ITV	18/02/2015	Scheduling	1
Emmerdale	ITV	19/02/2015	Generally accepted standards	1
Emmerdale	ITV	02/03/2015	Generally accepted standards	1
Emmerdale	ITV	02/03/2015	Generally accepted standards	11
Emmerdale	ITV	02/03/2015	Scheduling	4
Emmerdale	ITV	03/03/2015	Generally accepted standards	14
Emmerdale	ITV	03/03/2015	Outside of remit / other	1
Emmerdale	ITV	12/03/2015	Sexual material	2
Emmerdale	ITV	13/03/2015	Generally accepted standards	2
Exposure: Charities Behaving Badly	ITV	18/02/2015	Crime	8
Exposure: Charities Behaving Badly	ITV	18/02/2015	Due accuracy	813
Exposure: Charities Behaving Badly	ITV	18/02/2015	Religious/Beliefs discrimination/offence	2

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Exposure: Charities Behaving Badly	ITV	18/02/2015	Under 18s in programmes	15
Get Your Act Together	ITV	08/02/2015	Due impartiality/bias	1
Good Morning Britain	ITV	06/03/2015	Competitions	1
Harry Hill's Stars in Their Eyes	ITV	07/02/2015	Violence and dangerous behaviour	1
ITV News and Weather	ITV	16/02/2015	Generally accepted standards	1
ITV News and Weather	ITV	17/02/2015	Scheduling	2
ITV News and Weather	ITV	10/03/2015	Outside of remit / other	1
ITV News and Weather	ITV	11/03/2015	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	13/03/2015	Outside of remit / other	1
ITV News West Country	ITV	13/02/2015	Due accuracy	1
Jeremy Kyle	ITV	08/02/2015	Scheduling	1
Judge Rinder	ITV	05/02/2015	Generally accepted standards	1
Judge Rinder	ITV	03/03/2015	Generally accepted standards	2
Loose Women	ITV	17/02/2015	Due impartiality/bias	1
Loose Women	ITV	11/03/2015	Generally accepted standards	1
Loose Women	ITV	12/03/2015	Generally accepted standards	2
Loose Women	ITV	Various	Outside of remit / other	1
Lorraine	ITV	06/03/2015	Race discrimination/offence	1
Programming	ITV	Various	Competitions	1
Skoda's sponsorship of mystery drama on ITV	ITV	Various	Crime	1
Skoda's sponsorship of mystery drama on ITV	ITV	Various	Generally accepted standards	1
Summer Holiday	ITV	07/03/2015	Outside of remit / other	1
The Jeremy Kyle Show	ITV	11/02/2015	Generally accepted standards	1
The Jeremy Kyle Show	ITV	19/02/2015	Generally accepted standards	1
The Jeremy Kyle Show	ITV	28/02/2015	Scheduling	1
The Jeremy Kyle Show	ITV	05/03/2015	Generally accepted standards	1
The Jonathan Ross Show	ITV	07/02/2015	Generally accepted standards	1
The Jonathan Ross Show	ITV	21/02/2015	Race discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
The Mafia with Trevor McDonald (trailer)	ITV	11/03/2015	Crime	1
This Morning	ITV	19/02/2015	Materially misleading	3
This Morning	ITV	19/02/2015	Nudity	1
This Morning	ITV	13/03/2015	Generally accepted standards	1
118118.com's sponsorship of movies on ITV	ITV2	07/02/2015	Scheduling	1
Emmerdale	ITV2	27/02/2015	Scheduling	1
Emmerdale Omnibus	ITV2	28/02/2015	Scheduling	1
Plebs	ITV2	10/02/2015	Generally accepted standards	1
The Keith Lemon Sketch Show	ITV2	26/02/2015	Generally accepted standards	1
You've Been Framed!	ITV2	18/02/2015	Race discrimination/offence	1
Advertisement	ITV3	02/03/2015	Advertising content	1
Advertisement	ITV3	12/03/2015	Advertising content	1
Advertisement	ITV4	07/03/2015	Advertising content	1
Dinner Date	ITVBe	30/01/2015	Race discrimination/offence	1
Top Gear	Kanal 9	10/02/2015	Animal welfare	1
Kiss Breakfast	Kiss 101	11/03/2005	Age discrimination/offence	1
James O'Brien	LBC 97.3 FM	13/02/2015	Generally accepted standards	1
Nick Ferrari	LBC 97.3FM	02/03/2015	Race discrimination/offence	1
Steve Allen	LBC 97.3FM	26/02/2015	Generally accepted standards	1
Inside Spearmint Rhino	London Live	13/02/2015	Generally accepted standards	1
Cucumber (trailer)	More4	28/02/2015	Scheduling	1
Bike World	Motors TV	12/02/2015	Outside of remit / other	1
Programming	Movie Mix	Various	Television Access Services	1
News	Rother FM	02/03/2015	Due accuracy	1
The Weekly	RT	01/02/2015	Due accuracy	1
Volvo's sponsorship of Blue Bloods	Sky Atlantic	05/02/2015	Materially misleading	1
Murnaghan	Sky News	22/02/2015	Due impartiality/bias	1
News on the Hour	Sky News	18/02/2015	Generally accepted standards	1
Sky News	Sky News	14/03/2015	Generally accepted standards	1
Sky News at Nine	Sky News	21/02/2015	Animal welfare	1
Sky News with Kay Burley	Sky News	26/02/2015	Generally accepted standards	157

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Sky News with Martin Stanford	Sky News	07/02/2015	Due accuracy	1
Sunrise	Sky News	14/02/2015	Generally accepted standards	1
Chelsea vs Liverpool	Sky Sports 1	27/01/2015	Religious/Beliefs discrimination/offence	1
Fortitude (trailer)	Sky Sports 1	03/03/2015	Scheduling	1
Live World Club Challenge	Sky Sports 1	22/02/2015	Race discrimination/offence	1
Vitality Health's sponsorship of ICC Cricket World Cup	Sky Sports 2	21/02/2015	Advertising content	1
Sun Perks' sponsorship of The Simpsons	Sky1	Various	Advertising content	1
Programming	Starz	Various	Advertising minutage	1
Programming	Sunrise Radio	16/02/2015	Format	1
Colin Murray	Talksport	05/02/2015	Generally accepted standards	1
The Box+ Streaming Chart	The Box	15/03/2015	Generally accepted standards	1
Djurens Hjältar	TV3 (Sweden)	03/02/2015	Animal welfare	1
Advertisement	Various	Various	Advertising content	1
BBC News	Various	Various	Due impartiality/bias	1
News	Various	02/03/2015	Scheduling	1
Programming	Various	Various	Advertising content	1
Programming	Various	Various	Outside of remit / other	1
Programming	Various	Various	Television Access Services	2

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

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

Licensee	Licensed service	Categories	Number of complaints
Radio Scilly Limited	Radio Scilly	Key Commitments	2

## Investigations List

If Ofcom considers that a broadcaster may have breached its codes, a condition of its licence or other regulatory requirements, it will start an investigation.

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the licence or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 5 and 18 March 2015.

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

Programme	Broadcaster	Transmission date
Alapcharita	ATN Bangla	22 December 2014
Iain Lee	BBC Three Counties Radio	20 February 2015
Brit Asia Music Awards 2014	Brit Asia TV	4 January 2015
The Romanians Are Coming	Channel 4	Various
Hillside Night	Channel i	23 December 2014
Bangla Sur	CHSTV	23 December 2014
Makka Twin Peaks Challenge	CHSTV	28 November 2014
Subh-e-Pakistan	Geo TV	29 December 2014
The Verdict	Movie Mix	14 December 2014
Style and Trends	NTV	23 October 2014
Du Methay Bhool	Unity FM (Birmingham)	19 November 2014
Catch Me If You Can	Vox Africa	13 January 2015

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

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

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

Programme	Broadcaster	Transmission date
Today	BBC Radio 4	28 November 2014
Benefits Britain: Life on the Dole	Channel 5	26 November 2014

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

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

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

Licensee	Licensed Service
24 Live UK Limited	24 Live
A&A Inform Limited	Russian Hour
Absolute Radio Limited	Absolute Radio
Ariana Radio & Television Network	Ariana International
ARY Network Limited	ARY Digital
ARY Network Limited	ARY Entertainment
ARY Network Limited	ARY News
ARY Network Limited	ARY QTV
ARY Network Limited	ARY World News
ARY Network Limited	QTV – Islamic Education
Diverse FM	Diverse FM
Fashion Television International Limited	Fashion Television
Geo TV Limited	Geo News
Geo TV Limited	Geo TEZ
Geo TV Limited	Geo TV
Greener Technology Limited	BEN TV
H&C TV Limited	Horse & Country TV
H&C TV Limited	Horse & Country TV (Netherlands)

<b>Licensee</b>	<b>Licensed Service</b>
H&C TV Limited	Horse and Country TV (Swedish Feed)
Harmony Media Enterprises (UK) Limited	UKS Fuzion TV
Independent Television Limited	IT TV
Media News Network Ltd	Emerald TV
Middlesex Broadcasting Corporation Limited	MATV (Punjabi)
Middlesex Broadcasting Corporation Limited	MATV Music
Passion Broadcasting Television Services Limited	Passion TV
REAL Digital TV Limited	REAL Digital
Saviour Broadcasting TV Network Limited	Saviour TV
The Chinese Channel Ltd	TVBS Europe
TV Enterprises Limited	NTAI
Vox Africa Plc	Vox Africa

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

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