

Ofcom Broadcast Bulletin

**Issue number 92
10 September 2007**

Contents

Introduction	3
Standards cases	
In Breach	4
Resolved	17
Not in Breach	19
Note to Broadcasters (Additional Code Guidance)	21
Fairness & Privacy cases	
Upheld	22
Not Upheld	28
Other programmes not in breach/outside remit	49

Introduction

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

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

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

Standards cases

In Breach

BBC News

BBC1, 4 and 6 June 2007, 18:00

Introduction

Ofcom received 8 complaints regarding the transmission of the video logo designed for the 2012 London Olympics during three separate news bulletins on BBC1 on 4 and 6 June 2007. The images were broadcast as part of a report on the launch of the 2012 Olympics logo. The complainants included the British Epilepsy Association. The complainants were all concerned that broadcast of part of the animated 2012 logo, as part of the news reports, was harmful because of its likelihood to cause epileptic seizures.

Certain types of flashing images may trigger seizures in viewers who are susceptible to photosensitive epilepsy ("PSE"). The Code therefore contains rules aimed at minimising the risk to viewers who have photosensitive epilepsy.

Rule 2.13 of the Code states that "Broadcasters must take precautions to maintain a low level of risk to viewers who have PSE. 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".

On 4 June 2007, the BBC transmitted part of the Olympics video with a sequence of images containing rapid flashing images. Therefore the BBC was asked to comment on the compliance of this broadcast with Rule 2.13.

While the broadcast of 6 June 2007 contained images from the Olympic video, it did not transmit what appeared to be the more problematic sequence of flashing images.

Response

The BBC accepted that a section of the news report on 4 June 2007 "may have been a risk to viewers with photosensitive epilepsy". However, it did not believe that it was in breach of Rule 2.13 of the Code.

The BBC explained that the news item in question covered the launch of the Olympics logo, which was a significant news event, and that the logo was featured as part of that event. It said that whilst the logo had been described in advance as dynamic and moving, no indication had been given to the BBC that it might be problematic. It said that its expectation in this case had been that a major public body launching a promotion such as this to the public would already have taken steps to ensure compliance and that the graphics would have been tested for photosensitivity and be safe for it to broadcast. The BBC said it would not normally expect to test such images before broadcast.

The broadcaster went on to argue that it transmitted the material in good faith, that the image in question was used sparingly, and that it was not given any preview of the logo or time to assess the material in advance. It said its initial assumption – until it was alerted to the problem by calls, texts and emails from viewers – was that it was safe for transmission.

The BBC concluded its response by stating that it did not use the animated images in subsequent news bulletins and that it was reasonable, and consistent with the BBC's obligations to maintain a "low level" of risk, to rely upon the launch body (the 2012 Olympic Committee in this case) to have ensured that the item was safe for broadcast.

Decision

Flickering or intermittent images and certain types of regular patterns can cause problems for some viewers who have PSE. Ofcom has drawn up guidelines¹, following consultation with leading medical experts in this area, with the aim of reducing viewers' risk of exposure to potentially harmful images of this type.

In view of the potential harm which certain material can cause to PSE sufferers, broadcasters must exercise care when dealing with sequences which contain flashing images. Content which contains rapid scene cuts and/or where there is a change in screen brightness between cuts, should be reviewed with special care.

Ofcom tested the excerpt of the promotional video for the 2012 Olympics transmitted in the 4 June 2007 news bulletin. It found that the majority was unproblematic. However, a brief diving sequence of 45 frames (around 2 seconds in length) contained an excessive number of 'flashes' that were clearly in breach of the guidelines.

The BBC stated that it was not given time to assess the material in advance, and it would not normally expect to test such images before broadcast. However, irrespective of the source, it is the responsibility of the broadcaster to ensure that material it transmits complies with Ofcom's Broadcasting Code. This responsibility is particularly important where there is the potential for harm to viewers.

The broadcast of this material was therefore in breach of Rule 2.13.

Breach of Rule 2.13

¹ Guidance is available at <http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/guidance2.pdf>

Hustler TV output

Hustler TV, 29 June 2007, 01:30 – 04:30

Introduction

Hustler TV is an encrypted adult channel. A viewer queried why a premium rate adult chat line was promoted on-screen during pre-recorded adult programming; he thought it looked like advertising.

Under Rule 10.2 of the Code, the advertising and programme elements of a service must be kept separate.

Rule 10.3 states that products and services must not be promoted in programmes. This does not apply to programme-related material, defined in the Code as “products or services that are both directly derived from a specific programme and intended to allow listeners or viewers to benefit fully from, or to interact with, that programme”.

Rule 10.9 states:

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

- they form part of the editorial content of the programme: or
- they fall within the meaning the programme-related material”.

We asked the broadcaster to explain, with reference to the above rules, the basis upon which the chat line was promoted during programme content.

Response

With respect to Rule 10.2, the broadcaster considered that display of the premium rate telephone number on screen was not advertising and that it was clear to viewers of adult channels that numbers such as this were “promotional only”. It said that the number was “not under the Hustler TV name, so viewers can clearly separate advertising from promotional”. There was no prompt for the viewer to call the number, or to participate in any calls.

The broadcaster also argued that the chat line was programme-related material. It said that the erotic nature of the programme and the erotic nature of the chat lines were “obviously related to one another”. Viewers were “able to interact with women who are similar to the ones featured in the programme, to enhance their viewing pleasure, giving viewers the dual benefit of watching the programme and experiencing the chat lines with women”.

The broadcaster removed the chat line number from its output pending the conclusion of Ofcom’s enquiries.

Decision

One of the fundamental principles of European broadcasting regulation is that advertising and programming (that is editorial content) must be kept separate. This is set out in Article 10 of the Television Without Frontiers Directive which is in turn

reflected in the rules in Section Ten (Commercial References in Programmes) of the Code.

Rule 10.3 prohibits the promotion of products or services in programmes except where they are programme-related.

'Programme-related material' is narrowly defined in the Code; it must be both directly derived from a specific programme and intended to allow listeners or viewers to benefit fully from, or interact with, that programme. As Ofcom's published guidance makes clear, similarity, in terms of genre or theme, between a programme and product or service is not in itself sufficient to establish that the product or service is directly derived from the programme.

In this case, it was clear that the live chat service was not directly derived from the specific programme. Moreover, the premium rate telephone number was displayed over pre-recorded material, meaning that no viewer could interact with the programme and contribute to its editorial content. It therefore did not satisfy the definition of programme-related material and its promotion within the programme was in breach of Rules 10.3 and 10.9.

Whilst the programme may not have included an explicit advertising message or 'call to action' in respect of the chat line, the inclusion of the chat line number was clearly intended to be promotional. Such a promotion was therefore, in effect, an advertisement for an adult chat line and in breach of Rule 10.2 which requires advertisements and editorial to be kept separate.

We welcomed the action taken by the broadcaster in response to our queries. However, we were concerned that it had not understood its responsibilities under the Code, despite the availability of detailed guidance on the meaning of 'programme-related material' and relevant findings recently published in Ofcom's Broadcast Bulletin.

Breach of Rules 10.2, 10.3 and 10.9

Kaun Banega Crorepati

STAR Plus, 22 January 2007 and other dates, 21:00

Introduction

Kaun Banega Crorepati is a game show series, produced in India and originally intended for the Indian television market, and subsequently transmitted in the UK. It is based on the UK gameshow, *Who Wants To Be A Millionaire*. The host of the show and the contestant both use computers throughout the show.

A viewer in the UK expressed concerns that *Kaun Banega Crorepati* appeared to contain product placement by the computer firm, Compaq. The viewer said that the gameshow host repeatedly referred to Compaq.

Rule 10.4 of the Code provides that no undue prominence may be given in any programme to a product or service.

Rule 10.5 prohibits product placement. However, the Code states that product placement does not include:

“Television arrangements covering the inclusion of products or services in a programme acquired from outside the UK and films made for cinema provided that no broadcaster regulated by Ofcom and involved in the broadcast of that programme or film directly benefits from the arrangement”.

Having viewed a number of shows in the series, Ofcom requested the broadcaster’s comments under Rule 10.4.

Response

STAR Group responded on behalf of the Ofcom licensee, STAR Television Entertainment Ltd.

It advised that the programme was acquired from outside the UK and that STAR Television Entertainment Ltd did not directly benefit from any placement arrangement.

It acknowledged that Compaq’s red logo was at times visible on the back of the computers although it said that there were no direct close ups on the logo. It also said that during the show the host addressed the computers on a few occasions with expressions such as “*Is that correct, Mr Computer?*”, “*Compaq da*”, or “*Compaq garu*”, an Indian local dialect expression.

STAR Group considered that the computers were a necessary part of the show and served as a technical tool which allowed both the host and the contestants to view the questions being asked, provide possible answers and then display the correct answer. It added that Compaq had no input into editorial decisions regarding the broadcast of the show in the UK.

The series in question ended in April 2007; however, STAR Group said that, going forward, it would endeavour to comply with Rule 10.4.

Decision

Bearing in mind the definition of product placement under the Code, Ofcom did not consider that there was a breach of Rule 10.5. However, programmes acquired from outside the UK are nevertheless subject to Rule 10.4, which prohibits unduly prominent references to products and services.

Ofcom noted that the game show host used a range of expressions in addressing the computers used in the programme. Some of these expressions included the brand name, Compaq. However, this was part of the host's light-hearted patter, which was integral to the show. Ofcom considered that it would have been difficult to have edited the host's verbal references from the UK broadcast and that, on balance, these references in themselves were not unduly prominent. However, if they were to become more frequent or otherwise prominent within the programme, then this could raise problems under Rule 10.4.

In addition to the host's verbal references, the computers themselves featured branding for Compaq in clearly legible red lettering when shown in close up with the presenter and contestant. The branding appeared to have been deliberately positioned on the computers to ensure its visibility on-screen. Ofcom considered that there was insufficient editorial justification for inclusion of the branding and that it could have been edited out from the UK broadcast (for example, using blurring techniques) without compromising the editorial content. Whilst Ofcom welcomed the assurances from STAR Group regarding compliance going forward, it concluded that the visual references to Compaq in the series in question were unduly prominent.

Breach of Rule 10.4

Wimbledon news updates

Town 102 FM (Ipswich), 29 June 2007, 17:03

Introduction

At the beginning of the sports news, the presenter introduced himself and then handed over to “*our man at SW19*” for an update on “*day five at Wimbledon.*” After the update, the presenter said: “*BUPA Wellness makes you feel better*”, before he covered other sports news. A listener complained that this was an attempt by Town 102 to “increase their advertising profits” by “interrupting their news with subliminal adverts.”

Section 1 Rule 4.6 of the BCAP Radio Advertising Standards Code (“the BCAP Code”) requires that certain categories of advertisements or sponsorship, which include health and medical services, are approved by the Radio Advertising Clearance Centre (“the RACC”) in advance of broadcast. The RACC confirmed that it knew of BUPA Wellness’ sponsorship of Wimbledon updates, but it had not in advance cleared the promotional message for broadcast. Rule 9.4 of the Code requires that, “sponsorship on radio ... must comply with both the advertising content and scheduling rules that apply...”.

Rule 9.8 requires that, “the relationship between the sponsor and the sponsored [programming] must be transparent.”

Ofcom therefore sought Town 102’s comments on the matter.

Response

Town 102 said it always tried to ensure regulatory compliance but had mistakenly believed that its sports news provider had obtained RACC clearance in this case. The broadcaster added that it had taken action to ensure no recurrence and had already been in the process of revising its sports news provision.

Decision

While the sponsorship of broadcast news is prohibited, sports news bulletins may be sponsored or contain sponsored items. We welcomed Town 102’s assurance concerning the appropriate copy clearance of future sponsorship credits. However, failure to ensure that a sponsorship credit for a health or medical service is fully cleared by the RACC before broadcast is a clear breach of Section 1, Rule 4.6 of the BCAP Code and therefore Rule 9.4 of the Broadcasting Code.

It was unclear from the statement, “*BUPA Wellness makes you feel better*”, that it was anything more than a promotional message placed within the sports news. The channel failed to make clear to the listener that BUPA Wellness was a sponsor or that the Wimbledon updates within the bulletin were sponsored. The broadcast was therefore also in breach of Rule 9.8 of the Code.

Breach of Section 1, Rule 4.6 of the BCAP Code and Rules 9.4 and 9.8 of the Code

Sponsorship of News

ARY One World, various dates and times

Introduction

ARY One World broadcasts news and current affairs aimed primarily at a South Asian audience. Ofcom was contacted by a viewer who said that news on ARY One World appeared to be sponsored.

Rule 9.1 of the Code prohibits the sponsorship of news and current affairs on television.

Ofcom obtained a recording of sample output transmitted in February 2007. We noted that there was a sponsorship credit for the news which announced in English, *"This news detail was brought to you by Mobile Zone and Sony Ericsson"*. Subsequently, there was another sponsorship credit for the news; the voiceover said, *"This news headline is brought to you by Super Asia Microwave Oven"*. We therefore requested the broadcaster's comments.

Response

The broadcaster said that, at the time that Ofcom reviewed the output, ARY One World was "a live and single beam channel" involving a "turn-around" of its South Asian signal. In other words, what was broadcast in the UK was precisely the same output as that being broadcast at the same time to audiences in South Asia and elsewhere.

The broadcaster said that, in other parts of the world where the output was transmitted, there were no regulations prohibiting the sponsorship of news. The broadcaster went on to say that it was "technically extremely complicated to remove branding and sponsorship messages before turn-around without delay", and that to do this required a "sophisticated infrastructure". It initially claimed that it had made arrangements for a "clean beam" in order to fully comply with Ofcom's regulations, and envisaged that the new infrastructure would shortly be in place.

However, the broadcaster subsequently advised Ofcom that these arrangements had turned out to be not "technically feasible" and that the channel had therefore ceased to operate with effect from 23 July 2007.

Decision

European legislation prohibits television news and current affairs programmes from being sponsored. The Code, which broadcasters licensed in the UK are required to comply with, therefore prohibits sponsorship of news and current affairs on television.

News broadcast on ARY One World included clear sponsorship messages and was therefore in breach of Rule 9.1.

Breach of Rule 9.1

Promotion for itv.com/football

ITV1, 14 March 2007, 19:30

Introduction

In the closing titles for an episode of *Coronation Street*, the credits moved to a split screen. The left hand side provided information that live football was coming next on ITV1. A female announcer also gave these details out.

A male announcer then said “*For all the latest football news, go to itv.com/football, sponsored by Paddy Power online betting*”. Simultaneously, a separate screen in the top left hand corner of the picture showed a logo for Paddy Power.

One viewer expressed concern about the lack of separation between the programme and a sponsor credit; and that a promotional message was given to viewers in the credits of an unrelated programme.

Section Ten of the Code contains rules to ensure that:

- the independence of editorial control over programme content is maintained and that programmes are not distorted for commercial purposes; and,
- the advertising and programming elements of a service are clearly separated.

Rule 10.3 of the Code states: “Products and services must not be promoted in programmes. This rule does not apply to programme-related material.”

Rule 10.8 of the Code states: “Programme-related material may be sponsored, and the sponsor may be credited when details of how to obtain the material is given. Any credit must be brief and secondary, and must be separate from any credit for the programme sponsor.”

According to Section Ten of the Code, the meaning of ‘programme-related material’ (“PRM”) is: “...products or services that are both directly derived from a specific programme and intended to allow listeners or viewers to benefit fully from, or to interact with, that programme.” Ofcom’s guidance on the promotion of PRM states: “Programme-related material may only be promoted in or around the relevant programme.”

Response

ITV said it believed the reference to its football website constituted programme-related material and that, in accordance with Rule 10.8 of the Code, the reference to the sponsor was brief and secondary.

The broadcaster believed it was acceptable for the PRM to be promoted outside of the football coverage itself as it was within a ‘coming next’ credit for the football. This, in ITV’s view, conforms to Ofcom’s guidance on the placement of promotions for PRM. In general it believed that PRM related to one programme could be promoted in the end titles of another programme. However, following the complaint, and pending the outcome of Ofcom’s investigation, ITV said it would confine the promotion of football-related PRM within sports programming.

Decision

PRM provides an exception to the ban on the promotion of products and services in programmes. However, as already set out, Ofcom's guidance on the promotion of PRM states that PRM may only be promoted "in or around the relevant programme". ITV argued that "in or around" extends to the end titles for the programme preceding the relevant programme. Ofcom disagrees and does not consider that placing the promotion of PRM in the end credits of a preceding programme constitutes "in or around the relevant programme". The promotion of the website was too far removed from the actual programme it related to. On this occasion, ITV promoted a football-related website within the closing titles of *Coronation Street*, before the advertising break and the relevant programme even went to air.

Further, in this case, because the sponsorship reference occurred during the closing sequence to another programme, it may not be clear what was being sponsored.

Accordingly, Ofcom judged the reference to the website amounted to a breach of Rule 10.3.

Rule 10.8 allows the sponsor of PRM to be credited as long as any such reference is "brief and secondary". In the promotion for itv.com/football in this case, a significant portion of the viewing image was taken up with a separate screen that included branding for Paddy Power. Even if there had been sufficient justification for promoting the website in the end titles to *Coronation Street* (which, as discussed above, Ofcom considered was not the case), the reference to Paddy Power was not brief and secondary as required by the Code. Ofcom considered the reference was in breach of Rule 10.8.

Breach of Rules 10.3 and 10.8

This Morning

ITV1, 3 July 2007, 10:30

Introduction

This Morning is a weekday live magazine programme broadcasting a mixture of lifestyle, health, music and light entertainment items to a daytime audience. Eight viewers complained to Ofcom that a fashion item on kaftans was accompanied by the song "Smile" by Lily Allen which featured the lyric "...but you were fucking that girl next door".

The broadcaster was asked to comment regarding the use of this language and its suitability for the time of transmission with particular regard to Rule 1.14 of the Code, which states that "The most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening".

Response

The broadcaster regretted that the live broadcast in question did contain language that was unsuitable for daytime transmission. It explained that as a result of human error the wrong version of the song was used (instead of the edited version which does not include offensive language) and that this mistake was not spotted before it was transmitted. One of the programme's presenters apologised on air for any offence caused. The broadcaster said that it had reviewed the incident with the production team, which subsequently took steps to ensure that in future all such pre-recorded material is checked by a producer before broadcast. The broadcaster said it had also apologised to a number of viewers who had complained directly to it.

Decision

On 16 July 2007 Ofcom published a note to broadcasters in Bulletin 89 which stated that "All broadcasters are...reminded that they are under a clear duty to ensure that robust procedures are in place, supported by a sufficient number of appropriately qualified and trained staff, to ensure full compliance with the Code".

This requirement for robust procedures to be in place is particularly relevant with regard to live programmes. Human error cannot justify the inclusion of material that is in breach of the Code. Whilst Ofcom notes that a producer will now check all pre-recorded footage before it is broadcast live, it considers that a system of checks should have already been in place to avoid the likelihood of the most offensive language being transmitted before the watershed. This programme was therefore in breach of Rule 1.14 of the Code.

Breach of Rule 1.14

Glastonbury

BBC2, 23 June 2007, 17:50

Introduction

The annual Glastonbury Festival was broadcast live and in recorded highlights on BBC2 over the weekend of 22, 23 and 24 June 2007. One viewer contacted Ofcom stating that he was concerned that whilst watching the highlights coverage of Glastonbury at approximately 17:50 on Saturday 23 June 2007, a member of the band, The Arctic Monkeys, said *"Now fucking come on now"*. The complainant considered that this language could have been edited out.

Ofcom wrote to the BBC and asked it to comment in the light of Rule 1.14 of the Code which states that "The most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening".

Response

The BBC explained that a failure of communication between the recording team and the outside broadcast control truck meant that the precise point of the recording at which they should have cut away from the band back to the presenter was not made sufficiently clear.

It said that the presenter apologised immediately and that once the broadcast had ended the matter was discussed by the programme's production team, all of whom recognised this was a serious mistake and understood the need to take great care to ensure it was not repeated.

Decision

The BBC accepted that this transmission of offensive language before the watershed was a serious mistake. However, whether transmitted live or in the form of recorded highlights, the BBC was under a duty to ensure this programme was fully compliant with the Code. Since the language complained of was shown as part of recorded highlights, Ofcom considers that had effective compliance procedures been in place, there should have been little difficulty in noting the offensive language in advance of broadcast and taking measures to ensure it was not transmitted.

Breach of Rule 1.14

Hilltown FM (Dundee)

8 & 9 April 2007

Introduction

Ofcom received four complaints about swearing in conversations and music during the daytime and evening broadcasts on this station. We therefore asked Hilltown FM - an RSL - to provide a copy of the output.

Response

The station was unable to provide us with a copy of the broadcast as it had experienced problems with its logging system.

Decision

In the absence of a recording we were unable to consider the complaints. It is a condition of a radio broadcaster's licence that recordings of its output are retained for 42 days after transmission, and provides Ofcom with any material on request. Failure to supply these recordings is a serious breach of Hilltown FM's licence. This breach will be held on record and Ofcom may consider further regulatory action if this problem recurs.

Breach of Condition 8 of its Licence (Retention and production of recordings).

Resolved

Luton Airport

Sky Travel+1, 14 June 2007, 16:30

Introduction

Throughout *Luton Airport* - a fly-on-the-wall documentary about the workings of the airport - Sky Travel+1 broadcast a digital on-screen graphic ("DOG") which included the channel's name and the website address 'skytravel.co.uk'.

One viewer complained this website had no editorial link to the programme and was primarily used as a commercial site to sell holidays.

Section Ten of the Code contains rules to ensure that:

- the independence of editorial control over programme content is maintained and that programmes are not distorted for commercial purposes; and,
- the advertising and programming elements of a service are clearly separated.

Rule 10.3 states: "Products and services must not be promoted in programmes. This rule does not apply to programme-related material."

Rule 10.4 states: "No undue prominence may be given in any programme to a product or service."

Response

The broadcaster BSkyB Ltd ("Sky") said skytravel.co.uk was the generic branding for its lifestyle and travel channels, including Sky Travel, Sky Travel+1 (which includes the same content broadcast an hour later), Sky Travel Extra and Sky Travel Shop.

It maintained the website contained information and video clips from programmes broadcast on these channels in addition to providing tools for viewers to help them plan and book their holidays. Sky felt the website content enabled viewers to fully benefit from its programmes and had sufficient link to the programmes across its channels for the website address to be included. However, following the complaint, Sky withdrew the website address "pending further review".

Decision

Section Ten of the Code sets out to broadcasters that advertising and programming (that is editorial content) must be kept separate. Rule 10.3 prohibits the promotion of products and services within programmes. Rule 10.4 prohibits the inclusion of unduly prominent references in programmes to products or services.

Any reference to a website within a programme must be consistent with the requirements of the Code, and consideration should be given to the nature of the website and the manner in which the reference is made. Where a website provides further information about the content of a programme, there may be sufficient justification for the inclusion of the website address within the programme.

Ofcom has previously upheld a complaint about the use of commercially driven websites within programme content². As noted in the previous finding, Ofcom recognises that broadcasters' websites often include a degree of commercial activity, in addition to information about programme content. However, the more commercial a website and the more prominent the references to it within a programme, the greater the risk that such references may appear to be, in effect, promotional selling messages in breach of Rule 10.3, or unduly prominent in breach of Rule 10.4, or indeed both.

In this case, while Sky said that skytravel.co.uk includes material which has been previously broadcast on its travel and leisure channels and is "sufficiently connected to the programming", Ofcom noted that there was very limited information on the website about Sky Travel programmes (including the +1 strand) and none could be located about *Luton Airport*.

The home page of skytravel.co.uk connects people directly to what is undoubtedly a sales booking page, with holiday recommendations, special offers and price information prominently displayed. While the home page does provide access to alternative services such as programme support information, the primary aim of the site appears to be promotional in nature. Had the website address directed people to genuine support information on holidays Ofcom may not have found its inclusion to be problematic. As such it does not meet the criteria for 'programme-related material', which is permitted in programmes under Rules 10.3 and 10.6.

The reference to skytravel.co.uk was present throughout the programme. Given the nature of the website, Ofcom did not believe this was editorially justified. Sky's comments also indicate that the website address was present throughout the programmes on its leisure and lifestyle channels.

Ofcom welcomed the action from Sky to remove the website address and, in view of the prompt action taken by Sky, Ofcom concluded the matter was resolved. However, Ofcom would not expect the website address to return to Sky's programmes under the current direction of the website.

Resolved

² See Broadcast Bulletin 78 and the decision regarding *Perfect Match*

Not In Breach

News Knight with Sir Trevor McDonald

ITV1, 24 June 2007, 22:00

Introduction

This topical news comedy programme was introduced by Sir Trevor McDonald. It included a number of items which ranged from the quality of *Big Brother* contestants, through comments on the early release from jail of 25,000 prisoners, to a sequence entitled "Saudis Do The Funniest Things" (a spoof clip show). At one point, Sir Trevor McDonald introduced an item by saying: "*It's time for 'Racist and Dead', this week, it's the turn of corpulent, narrow-minded northerner Bernard Manning. Personally, I never thought of Bernard Manning as a racist comic... just a fat, white bastard...*"

112 viewers complained that the use of the expression "*fat, white bastard*" was inappropriate and/or racist.

Decision

The Code was drafted in the light of the Human Rights Act 1998 and the European Convention on Human Rights. In particular, the right to freedom of expression, as expressed in Article 10 of the Convention, encompasses the audience's right to receive creative material, information and ideas without interference, but subject to restrictions prescribed by law and necessary in a democratic society.

Ofcom must ensure that generally accepted standards are applied to the content of television services, so as to provide adequate protection for members of the public, for example from the broadcast of offensive material.

Rule 2.3 of the Code states that "...in applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...". There is therefore no prohibition on the broadcast of an expression such as the one used by Sir Trevor McDonald, provided that it is justified by context. Context includes, amongst other things: the time of broadcast; the editorial content of the programme; the degree of offence likely to be caused by the material; and the likely expectation of the audience.

The programme was broadcast a full hour after the 21:00 watershed, when more challenging material can sometimes be expected. It was clear from the outset that the programme, whilst a comedy, was an edgy, satirical look at the week's news, and that on occasions there would be some material that risked offending some viewers.

In the case of this programme, Sir Trevor McDonald obviously, and intentionally, drew on Bernard Manning's own style of humour, which frequently played on the real or apparent prejudices of his audience. The comments were clearly intended to parody Manning's own comedy, where he claimed he was not himself racist, but simply made 'jokes' based on racial stereotypes. It was in such a context that Sir Trevor McDonald could therefore state that he did not consider Manning to be a racist but then went on to say that he was "*...a fat white bastard*".

Taking the above into account, therefore, we do not believe this specific expression went beyond the likely expectations of an audience for a satirical news-based comedy programme broadcast well after the watershed, and that any offence that may have been caused was justified by the context.

Not in Breach

Note to Broadcasters

Sponsorship and gambling

Ofcom recently updated Section Nine of its Broadcasting Code in light of the Gambling Act 2005 coming into effect on 1 September 2007. The amendments ensure that the sponsorship rules set out in the Code are in line with the new Broadcast Committee of Advertising Practice ("BCAP") rules for gambling advertisements on television and radio.

Ofcom is today publishing guidance, below, which will be added to the existing guidance on Section Nine of the Code. This is to help clarify the position regarding broadcast sponsorship by gambling companies.

Additional Guidance to Section Nine of the Code

Sponsorship and gambling

On 1 September 2007, revised BCAP rules for gambling advertisements on television and radio came into effect in order to reflect the provisions of the Gambling Act 2005. See <http://www.asa.org.uk/asa/codes/>

As with all broadcast sponsorship, broadcasters must ensure that sponsorship on radio and television by gambling companies complies with the relevant BCAP advertising scheduling and content rules.

Broadcasters must also ensure that the gambling company is permitted to advertise - and therefore to sponsor - on air. For more information, see the Committee of Advertising Practice presentation, available at <http://www.cap.org.uk/cap/gambling/>

The Gambling Act 2005 does not apply outside Great Britain. Licensees should ensure that specialist legal advice is sought when considering broadcast sponsorship in Northern Ireland or the Channel Islands by gambling companies.

In addition, broadcasters should be aware that, in August 2007, the gambling industry published its voluntary code, the Gambling Industry Code for Socially Responsible Advertising. It is for the gambling industry itself to observe the voluntary code, available at:

<http://www.rga.eu.com/shopping/images/Code%20on%20SR%20in%20advertising.pdf>

Fairness and Privacy Cases

Upheld

Complaint by Mrs S

On The Air, BBC1 Northern Ireland, 27 October and 19 December 2006

Summary: Ofcom has upheld this complaint of unfair treatment and unwarranted infringement of privacy in the broadcast of the programme.

This programme (repeated on 19 December 2006) used animation to bring to life some of the radio phone-in exchanges between the presenter of *The Gerry Anderson Show* and callers to his programme. It featured a caller who said that she was going out on a singles night and who said that Mrs S (referred to by her full name in the first broadcast of the programme, but referred to only by her first name in the repeat shown six weeks later) was going with her. Both the caller and the presenter referred to Mrs S's first name in the conversation that followed in which it was also alleged that Mrs S was looking for a man and would end up in a ditch with one. The caller also referred to "Dungannon", a district of Northern Ireland where she and Mrs S appeared to live.

Mrs S complained to Ofcom that she was treated unfairly and that her privacy was unwarrantably infringed in the broadcast of the programme in that the comments made by the caller and the programme's presenter were untrue and the re-use of the material from the earlier radio programme was unfair to her. Also, she complained that her name was used without her knowledge and her address was identifiable from the information revealed in the *On The Air* programmes.

The BBC said that it recognised that it had not dealt properly with her concerns when she first contacted it after the first broadcast of the programme and had agreed that all references to her should have been taken out of the two programmes. The BBC said that the programmes would not be repeated again that it regretted the distress caused to her.

Ofcom considered that the comments made about Mrs S in both the original radio programme and the subsequent television animation were unsubstantiated and had the potential to materially affect viewers' understanding of Mrs S and her private life. This, Ofcom found, was unfair to Mrs S and concluded that the programmes' reuse of this material resulted in unfairness to her.

Ofcom found that the inclusion of Mrs S's name in the programmes along with the district where she lived was sufficient to render her identifiable. The inclusion of this information in the context of a light-hearted conversation, in which the allegations already referred to above were made, did infringe her privacy. The use of this information in this context was not justified by the content and context of the programmes.

Introduction

On 27 October 2006, BBC1 Northern Ireland broadcast an edition of *On The Air*, part of a series of ten, short television programmes that used clay modelling and three-dimensional animation techniques to bring to life the content of radio phone-in

exchanges previously included in the radio programme, *The Gerry Anderson Show*. These earlier radio programmes, broadcast on BBC Radio Ulster, had featured exchanges between the presenter Mr Gerry Anderson and listeners who had called into the programme. One episode of *The Gerry Anderson Show* had included an exchange between the presenter, Mr Anderson, and a caller (referred to as “Noelle”).

This particular exchange was recreated in the episode of *On The Air* broadcast on BBC1 Northern Ireland on 27 October 2006.

The caller “Noelle” claimed to have been “*Miss Dungannon 1956*” and appeared to live in the Dungannon district of Northern Ireland. She talked to Mr Anderson about the fact that she was single and was going to a “*singles’ night*” that evening. At this point, the conversation continued as follows:

“Noelle”: “*And we ought to mention, shut your mouth a minute, [Mrs S’s full name] [inaudible] looking [for] a man.*”

Mr Anderson: “[Mrs S’s first name] *is looking at men too?*”

“Noelle”: “*Yeah, she’s going to singles night with me.*”

Mr Anderson: “*Do I get the impression that the first man who walks down your road will be pulled into the ditch?*”

“Noelle”: “*You’re dead right.*”

Mr Anderson: “*between you and [Mrs S’s first name]?*”

Shortly after this, the recreation of the call ended and *On The Air* finished.

On 1 November 2006, Mrs S complained to the BBC directly about the episode of *On The Air* broadcast on 27 October 2006. In response on 24 November 2006, Mr Fergus Keeling, the Commissioning Editor and Executive Producer of the series, apologised to Mrs S for any distress the programme may have caused her. He also said that her last name would be edited from any repeat broadcast of *On The Air* to prevent any further anxiety should it be shown again.

This particular episode of *On The Air* was repeated on BBC1 Northern Ireland on 19 December 2006 (after she had complained to the BBC) without Mrs S’s last name being mentioned.

On 18 December 2006, Mrs S complained to Ofcom that she was treated unfairly and that her privacy was unwarrantably infringed in the edition of *On The Air* (broadcast on 27 October 2006). On 31 January 2007, Mrs S confirmed to Ofcom that her complaint also included the edited repeat broadcast of the programme (broadcast on 19 December 2006).

The BBC wrote to Mrs S on 1 March 2007 offering to resolve her concerns about the programme. It recognised that it had not dealt properly with her concerns when she contacted them after the first broadcast of the programme and agreed that all references to her should have been taken out of the two *On The Air* programmes. It said that the two programmes would not be repeated and that recordings would be marked “not to be broadcast under any circumstances either in whole or in part”. The BBC also apologised for the distress caused to her. The BBC told Mrs S that it had

considered broadcasting an apology, but decided that a personal apology would be more appropriate as a public one would risk embarrassing her all over again.

On 16 March 2007, Mrs S indicated to Ofcom that she was not prepared to accept the BBC's offer of resolution and wished Ofcom to continue its consideration of her complaint.

In accordance with its published outline procedures for handling fairness and privacy complaints, Ofcom continued with its consideration of Mrs S's complaint.

The Complaint

Mrs S's case

In summary, Mrs S complained to Ofcom that she was treated unfairly in the original broadcast of *On The Air* and in the repeat broadcast of it in that:

- a) the comments made about her (namely that she was "*looking [for] a man*", going to a singles' night and would pull the first man she saw on the road into a ditch) were not true. Mrs S said that she "knew of" the caller, "Noelle", but did not socialise with her. She said that the comments were particularly unfair to her in the context that: it affected her standing in the community and her struggle with grief at the death of her husband; and,
- b) the programme makers failed to ensure that the re-use of the material taken from the earlier radio programme, *The Gerry Anderson Show*, would not cause unfairness to her.

In summary, Mrs S also complained to Ofcom that her privacy was unwarrantably infringed in the broadcast of the original *On The Air* programme and the repeat broadcast in that:

- c) her name was used in both episodes of *On The Air* without her knowledge or consent and her address was identifiable from the information revealed in both programmes. This resulted in her being subjected to undue and public ridicule from those who saw the two programmes.

The BBC's case

In summary, and in response to Mrs S's complaint, the BBC said that it regretted the distress both episodes of *On The Air* caused Mrs S.

Following the broadcast of *On The Air* on 27 October 2006, the BBC said that it removed Mrs S's distinctive surname from the programme so that any repeat of the programme would not identify her again. This action was taken after she had written to the BBC about the use of her name in the first broadcast of the programme. In any event, the BBC said that it would not be broadcasting the programme again.

The BBC also said that it wished for its letter to Mrs S dated 1 March 2007 (referred to above) to be taken into consideration by Ofcom when it adjudicated on the complaint.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes included in such services and unwarrantable infringement of privacy in the broadcast and in the making of programmes included in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed. This case was considered by Ofcom's Executive Fairness Group. Ofcom considered the complaint and the broadcaster's response, together with supporting material and a recording and transcript of the programmes as broadcast. In its considerations, Ofcom took account of Ofcom's Broadcasting Code ("the Code").

Ofcom found the following:

Fairness

- a) Ofcom first considered Mrs S's complaint that the comments made about her attending a "singles night" were not true and therefore unfair to her.

In considering this element of complaint, Ofcom took account of: Practice 7.9 of the Code which states that before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that: material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

Ofcom noted the references to Mrs S in the episode of *On the Air* broadcast on 27 October 2006 in full:

- "Noelle": "And we ought to mention, shut your mouth a minute, [Mrs S's full name] [inaudible] looking [for] a man."
- Mr Anderson: "[Mrs S's first name] is looking at men too?"
- "Noelle": "Yeah, she's going to singles night with me."
- Mr Anderson: "Do I get the impression that the first man who walks down your road will be pulled into the ditch."
- "Noelle": "You're dead right."
- Mr Anderson: "between you and [Mrs S's first name]?"

In the edited repeat broadcast of *On The Air* on 19 December 2006, Mrs S's last name was removed.

Ofcom noted that, as explained above, the references to Mrs S included in these two episodes of *On The Air* broadcast on 27 October and 19 December 2006 had been taken from an earlier radio 'phone-in', *The Gerry Anderson Show*.

In considering this element of Mrs S's complaint, Ofcom took the view that although callers to 'phone-in' programmes may have a right to freely express their views and opinion, there was a danger that programmes could be capable of adversely affecting a person's reputation. Ofcom considered that broadcasters should be alert to the danger of unsubstantiated allegations being made by participants in live 'phone-in' programmes and that special care should be taken when broadcasting that material either live or in a recorded format to avoid unfairness.

Ofcom noted that Mrs S said that the allegations that she was to attend a "singles night" with "Noelle", was "looking [for] a man" and would pull the first man she saw on the road into a ditch, were not true and that the BBC did not refute them. Ofcom noted that BBC's attempt to resolve the complaint with Mrs S and that it had taken steps to ensure that the programme would not be shown again.

However, in the circumstances of this complaint, Ofcom considered that the comments about Mrs S were unsubstantiated and had the potential to diminish her reputation. Ofcom therefore found that the BBC's failure to take reasonable care over the presentation of this material resulted in unfairness to Mrs S.

- b) Ofcom then considered Mrs S's complaint that the programme makers failed to ensure that the re-use of the material taken from the earlier radio programme, *The Gerry Anderson Show*, would not cause unfairness to her.

In considering this element of her complaint, Ofcom had regard to Practice 7.8 of the Code which states that broadcasters should ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create unfairness. This applies both to material obtained from others and the broadcaster's own material.

Again, Ofcom noted that the conversation between "Noelle" and Mr Anderson was recorded and broadcast for transmission on an earlier radio programme and that the same recorded conversation was now re-used in an animated television programme. Ofcom considered that although the medium and format in which the conversation was first delivered (that is, radio) differed from the later television broadcasts, the content of the conversation remained unchanged as did the context in which Mrs S's name was mentioned. In these particular circumstances, Ofcom considered that the reuse of this material in a different format did not in itself result in unfairness to Mrs S, but Ofcom went on to consider the content of the material used in the programmes.

Ofcom considered that the comments made about Mrs S in both the original radio programme and the subsequent television animation were likely to materially affect viewers' understanding of Mrs S and her private life as discussed at head (a) above. Ofcom therefore found that the programmes' reuse of this material resulted in unfairness to Mrs S.

Accordingly, the complaint of unfair treatment was upheld.

Privacy

- c) Ofcom then considered Mrs S's complaint that her privacy was unwarrantably infringed in the broadcast of the programme in that her name was used in the

programmes without her knowledge or consent and that her address were identifiable as a result.

Ofcom's recognises that the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted? (Rule 8.1 of the Code).

Ofcom first considered whether or not Mrs S had a legitimate expectation of privacy concerning the use of her name without her knowledge or consent and the revelation of information that made her address (that is, the district in Northern Ireland where she lived) identifiable. In Ofcom's view a person's name or identity is not in itself information of an inherently private nature, though the context in which a person is named could afford them a legitimate expectation of privacy. Ofcom noted: Mrs S's claim that the allegations made by Mr Anderson and "Noelle" about her were untrue (a claim not refuted by the BBC); the circumstances of her grief for the loss of her husband; and, the unwanted attention she said the programme had brought her in her local community. In these circumstances, Ofcom considered that the use of Mrs S's name in the context of another person discussing personal information which was not substantiated and the disclosure of information of where she lived was such that she would have a legitimate expectation of privacy.

Ofcom then considered whether or not Mrs S's privacy was infringed in the broadcast of the two *On The Air* programmes. Ofcom noted that both Mr Anderson and the caller "Noelle" referred to "Dungannon" several times during their conversation, but was satisfied that use of the place name "Dungannon" alone was insufficient to identify Mrs S's address or the district where she lived. However, in this particular case, Ofcom considered that the use of the place name "Dungannon" in conjunction with the inclusion of her full name in the first programme and her first name in the repeated broadcast (broadcast six weeks later), was sufficient to render her identifiable to a wider audience, and in particular, her local community. Ofcom concluded therefore that the inclusion of Mrs S's name and information that rendered where she lived identifiable did infringe her privacy.

Ofcom finally considered whether or not the inclusion of her name and information that rendered where she lived identifiable in the *On The Air* programmes was warranted. Taking into account Ofcom's conclusions that Mrs S had a legitimate expectation of privacy and that her privacy was infringed, it found that the inclusion of this material was not warranted by the content and context of the programmes, namely light-hearted animations. Ofcom therefore found that Mrs S's privacy was unwarrantably infringed in the broadcast of both the first programme and in the second programme.

The complaint of unwarranted infringement of privacy in the broadcast of the programme was upheld.

Accordingly, Ofcom found the broadcaster in breach of Rule 7.1 and Rule 8.1 of the Code.

Not Upheld

Complaint by Sony Computer Entertainment UK Limited

Ian Wright's Unfit Kids, Channel 4, 20 September 2006

Summary: Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy.

Sony Computer Entertainment UK Limited ("Sony") complained that it was treated unfairly and that its privacy was unwarrantably infringed in the broadcast of an edition of Channel 4's series *Ian Wright's Unfit Kids*. Former footballer, Ian Wright, explored some of the reasons for the rise in childhood obesity. He selected eight overweight 13-14 year olds, who did little or no exercise. He worked with the children at home and at school and devised an After School Fitness Club programme for them. In view of the success of his pilot scheme, Ian Wright wanted to extend the project and the second programme in the series, broadcast on 20 September 2006, showed his attempt to secure funding to do so. He arranged to meet representatives of Sony to explore the possibility of obtaining sponsorship from them. In the event, Sony decided not to sponsor the scheme. Sony was referred to in the programme, an email from the company in relation to sponsorship was shown and footage of the exterior of the company's offices was included.

Sony complained that: the programme made it the target for unfair, one-sided and pejorative comment; the nature and purpose of the programme was not explained to the company; the company's position was not fairly represented; and, the company was not given an appropriate and timely opportunity to respond to the criticism of it in the programme. The company also complained that its privacy was unwarrantably infringed in that footage of the company's offices and logo were filmed and a confidential email from the company was included in the programme.

Channel 4 responded that: Sony was not targeted for unfair comment and that the programme did not imply wrongdoing on the part of the company; Sony was made fully aware from the outset of the nature and purpose of the programme; the email from Sony was fairly represented in the programme; the company was given an opportunity to respond and its response was included; the programme makers did not need consent to film the exterior of the company's offices; and, they had permission to use an email from the company in the programme.

Ofcom found that the inclusion of Ian Wright's reaction to the news that Sony was not going to provide funding was reasonable as a reflection of his disappointment over Sony's response. The inclusion of Ian Wright's response to Sony's decision did not amount to an allegation of wrongdoing or other significant allegation about the company to which the programme makers should have given it an opportunity to respond. In any event, an email from Sony to the programme makers explaining the decision was fairly represented in the programme. Ofcom found that it was not an infringement of the company's privacy for the programme makers to film the exterior of its offices or to include the email setting out its decision not to provide funding in the programme.

Introduction

In this programme, former footballer, Ian Wright, explored some of the reasons for the rise in childhood obesity. He selected eight overweight 13-14 year olds, who did little or no exercise. He worked with the children at home and at school and devised an After School Fitness Club programme for them. In view of the success of his pilot scheme, Ian Wright wanted to extend the project and the second programme in the series, broadcast on 20 September 2006, showed his attempt to secure some funding to do so. He arranged to meet representatives at Sony to explore the possibility of obtaining sponsorship from them. In the event, Sony decided not to sponsor the scheme. Sony was referred to in the programme, an email from the company in relation to sponsorship was shown and footage of the exterior of the company's offices was included.

Sony complained that it was treated unfairly in the programme as broadcast and that its privacy was unwarrantably infringed in the making and the broadcast of the programme.

The Complaint

Sony's case

In summary, Sony complained that it was treated unfairly in that:

- a) It was unfair for Sony, which considered and assessed a request for funding for Ian Wright's project and subsequently declined to be involved, to then be the target for unfair, one-sided and pejorative comment.
 - Ian Wright's remarks "*Fuck Sony, man. Sony's not gonna stop this from working*", created a completely erroneous and unfair impression of Sony which was disproportionate in the context of the refusal of a request for sponsorship.
 - The programme implied wrongdoing on Sony's part, alleging that it failed to sponsor Ian Wright's project and unfairly contrasted this with a statement about the company's worldwide turnover generated from video games.
- b) The programme makers did not explain the nature and purpose of the programme to Sony, nor did they explain how Sony would be represented in it. They did not inform Sony that the company's refusal to have the meeting with Ian Wright filmed would be referred to negatively in the programme.
- c) The programme did not fairly represent Sony's position because it omitted or disregarded relevant information about the company's positive views about Ian Wright's project and the other sports based initiatives in which the company was involved. Selective quotes from the email from Sony to the programme makers created an unfair impression of the company.
- d) Sony was not informed that it would be referred to in the programme and was not given an opportunity to respond to the criticism levelled at it by Ian Wright. The programme makers insisted that Sony put its refusal to provide sponsorship in writing and did not inform Sony that the company's email to the programme makers, in which it confirmed its refusal to fund the project, would be read out during the programme.

In summary, Sony complained that its privacy was unwarrantably infringed in the making of the programme in that:

- e) Filming of the Sony logo and the exterior of the company's offices was without the permission of the company.

In summary, Sony complained that its privacy was unwarrantably infringed in the broadcast of the programme in that:

- f) The use of confidential correspondence, namely the email informing the programme makers that it would not be providing sponsorship, was an infringement of Sony's privacy, since it was intended only for the addressee and was used without Sony's permission.

Channel 4's case

In summary Channel 4 responded to the complaint of unfair treatment made by Sony as follows:

- a) Regarding the complaint that Sony was the target for unfair one-sided and pejorative comment, Channel 4 responded that it was perfectly reasonable for the programme's presenter Ian Wright to approach Sony for sponsorship and the company was not the target for unfair, one-sided and pejorative comment.
 - The sequence complained of represented Ian Wright's reaction of disappointment and frustration at Sony's decision not to contribute sponsorship to his scheme. In correspondence Sony had accepted that it was "perfectly reasonable" for Ian Wright to express his frustration at the company's decision, but the company objected to the intensity of his reaction. The precise phrase used by Ian Wright was clearly not uttered in any literal sense but was a spontaneous exclamation of frustration and determination that the setback would not dissuade him from pursuing his goal. This would have been understood by viewers, given the broader context in which it was made. It was clear to viewers that Ian Wright had given up a great deal of his own time and energy and had got to know the children well. It was also clear that the children had got off to a very rocky start but that, following the success of an activity weekend, Ian Wright was told that if he could get funding, the scheme could be extended. The voiceover explained that Ian Wright was prompted to approach Sony because the inactivity of one of the children resulted from his "games console habit". After the initial meeting with Sony representatives, Ian Wright was optimistic about the prospect of receiving some funding from them. It was against this background that he received the news that Sony had decided not to sponsor the scheme. Ian Wright was entitled to express his reaction to Sony's response in a manner that was faithful and accurate to him and viewers would have been able to contextualise his spontaneous and unscripted expressions of frustration and disappointment.
 - The programme did not imply wrongdoing by Sony. The company was approached because one of the children on the pilot scheme spent many hours playing computer games. The reference to the annual turnover of Sony's parent company was simply a reference to Sony's annual turnover from gaming. This was justifiable in the context both of Sony's refusal to sponsor the scheme and in the editorial context of the programme, namely the child's game playing addiction. Ian Wright's reference to Sony not being "bothered" was not a suggestion of moral wrongdoing, but a reference to the company's priorities as

he understood them. From his perspective, notwithstanding that Sony said it considered his scheme to be “meritorious”, it wasn’t “bothered” enough to consider it worth funding his project in 2006. Just as Sony was entitled to set its business and sponsorship priorities, so Ian Wright was entitled to express his views on those priorities, as long as they were based on fact.

- b) Regarding the complaint that the programme makers did not explain the nature and purpose of the programme to Sony, Channel 4 responded that Sony was made aware from the very first contact with the programme makers that Ian Wright’s attempts to set up his scheme were being filmed for a Channel 4 series, that the company was being approached to help provide funding for the scheme and that Ian Wright’s attempts to raise sponsorship were to form part of the series.

At no time before or after the meeting with Ian Wright, including up to broadcast, did any member of Sony personnel state that they objected to mention being made of the fact that they did not want to be filmed or of their decision not to fund the project, nor had Sony suggested that this was the case. The programme makers were dealing with the public relations and corporate communications departments of a multi-national organisation, who would have understood that Sony would inevitably be referred to in the series. The programme makers explained to Sony in an initial telephone call what the series was about and that Ian Wright was seeking sponsorship. This conversation was followed up by an email, which clearly stated the basis upon which Ian Wright was approaching Sony for sponsorship and the nature and purpose of the programme. A meeting was then arranged but it was explained that it was contrary to Sony’s policy to allow filming at such meetings. During the meeting, Ian Wright and a representative of the programme makers explained to a Sony representative the details of the scheme and the nature and aims of the series. Viewers would ordinarily have expected such a meeting to be filmed, so an explanation was needed as to why it was not. Sony did not ask the programme makers not to refer to its decision not to be filmed in the programme and there did not appear to be any sensitivity in this regard, as the decision was expressed to be based on established company policy. In any event, the decision not to be filmed was not referred to in a negative way. Ian Wright referred to the fact that he had not got a problem with it, as he was pleased that the company was not refusing to see him. Ian Wright was then filmed coming out of the meeting in a very positive frame of mind.

- c) Regarding the complaint that the programme did not fairly represent Sony’s position, Channel 4 said that the part of the email from Sony in which it referred to Ian Wright’s scheme as “meritorious” was clearly visible on screen. Viewers would also have seen that Sony wished him well in his endeavours. While the programme makers understood that Sony might have welcomed mention of its own sports initiatives, the series was about Ian Wright’s scheme, which was predicated specifically on engaging unfit and/or overweight children in sport. None of Sony’s initiatives sought specifically to target that category of children. Had Sony considered that details of its projects were relevant to its decision not to provide sponsorship for Ian Wright’s scheme, mention would have been made of that in the email to the programme makers. The email was not selectively edited in such a way as to create unfairness to Sony. The camera focused in so that the lines of the email that were not read out were clearly visible to viewers.
- d) Regarding the complaint that Sony was not given an appropriate opportunity to respond to the criticism of it in the programme, Channel 4 responded that it was

inconceivable that Sony was not aware that its response to the request for funding would be featured in the programme. Sony's formal response to the request for funding was set out in the email of 8 May 2006 and, as set out above, this was fairly represented in the programme. It was wholly appropriate for Ian Wright to refer to that response and, given that Sony knew that the approach to the company was made within the context of the series and that Ian Wright was the presenter. Channel 4 stated that it was inconceivable that Sony did not appreciate that it would be referred to or used in the series. The programme makers did not insist on the decision not to provide sponsorship being put in writing, but, having received the news by phone, a representative of the programme makers made it clear that the decision would be referred to in the programme and Ian Wright's reaction to the news filmed. He therefore offered Sony the opportunity to set out in full its decision and the reasons for writing it in an email that could be read from in the programme as necessary or appropriate. The tone and content of the email gave no indication that it was written under duress, as suggested.

In response to the complaint of unwarranted infringement of privacy in the making of the programme, Channel 4 said in summary:

- e) No request was made or required to film the exterior of Sony's offices, as the programme makers were filming openly from a public highway.

In response to the complaint of unwarranted infringement of privacy in the broadcast, Channel 4 said in summary:

- f) All company emails are routinely accompanied by confidentiality wording, but in this case the programme makers had received clear, overriding and express authorisation from a Sony representative to use the email.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes included in such services.

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

Sony's complaint was considered by Ofcom's Executive Fairness Group. Ofcom considered the complaint and the broadcaster's response, together with a recording and transcript of the programme as broadcast.

In the circumstances of this case Ofcom found the following:

- a) Ofcom first considered Sony's complaint that the company was the subject of unfair, one-sided and pejorative comment.

In considering this head of complaint, Ofcom took into account Practice 7.9 of the Code. Practice 7.9 states that broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

Ofcom considered together Sony's specific complaints regarding the presentation of Ian Wright's reaction to Sony's decision not to sponsor his project, and regarding the reference to the company's worldwide turnover. Ofcom noted the relevant sections of the programme:

Ian Wright: *"They're getting \$8.6 billion off games alone. Just games".*

The following sequence comes a little later in the programme:

Narrator: *"Back at his flat, Ian's finally received an email from Sony about funding for his fitness clubs".*

Ian Wright: *"We thank you for considering Sony. Unfortunately your scheme does not match the criteria of our strategy. We wish you the best with you endeavours".*

"Very disappointing. It's very disappointing. Every single thing that a child can go out and exercise there's a, there's a Sony Playstation game for. You know, why go out and try and do it when you can be on a computer game acting like the fastest runner in the world or the best footballer in the world. You're living a dream through like computers which is rubbish. You know, at the end of the day, course people like Sony know that they'll still, people are still gonna buy their stuff, they can't lose. You know, and what's the worst thing that's happening at the moment, I'm slaughtering them. They're not bothered, are they? We're doing something that's working so, we're... I'll go somewhere else. Fuck Sony man. Sony's not gonna stop this from working."

Ofcom considered that it was clear throughout the programme that Ian Wright was emotionally very involved with the fitness project and felt strongly about the impact it could have both on the children featured in the programme and on other children if the project continued. It was also made clear that Ian Wright left the meeting with Sony feeling positive and hopeful.

Ofcom considered that it was not unfair for the programme to include the reference to the company's turnover as background to Ian Wright's bid for sponsorship, in the context of the request by Ian Wright for funding for one scheme from the company. Ofcom also considered that the programme's presentation of Ian Wright's reaction to the news that Sony was not providing funding was reasonable as a reflection of his disappointment over Sony's response. Ofcom considered that in the context of Ian Wright's endeavours for the children, and in particular his personal commitment to the project emphasised throughout the programme, the inclusion of his reaction in the programme, which included the phrase *"Fuck Sony man"* did not in itself result in unfairness to Sony.

Taking into account the above considerations Ofcom found that the broadcaster took reasonable care in satisfying itself that material facts in relation to Sony were presented in a way that did not, in itself, result in unfairness to Sony.

Ofcom therefore found no unfairness to Sony in this respect.

- b) Ofcom considered Sony's complaint that the programme makers did not explain the nature and purpose of the programme nor how the company would be represented in it.

In considering this head of complaint, Ofcom took into account Practice 7.3 of the Code. Practice 7.3 says that where a person is invited to make a contribution to a programme, they should normally be told about the nature and purpose of the programme and told what kind of contribution they are expected to make.

Ofcom noted Sony's specific complaint that it was not informed that its refusal to allow the meeting with Ian Wright to be filmed would be referred to negatively. After the meeting, Ian Wright said on the programme:

"They refused to be filmed, but I ain't got a problem with that because I'd rather them refuse us filming them, than them refuse... Hoy! When I go in an speak to people like that and let them know what we're doing and how much it means to me, feel, just when I come out, I'm buzzing man, I feel like I've gotta charge. He's gonna get back to us on Wednesday and you know something I'm quite hopeful that they'll give us something. You know, fingers crossed, fingers crossed."

In the circumstances, Ofcom took the view that viewers would be unlikely to consider the lack of filming of the meeting as negative, as Ian Wright so clearly came out of it feeling positive.

Ofcom therefore found no unfairness to Sony in this respect.

- c) Ofcom next considered the complaint that programme omitted or disregarded relevant information and quoted selectively from the email outlining its decision not to provide funding.

Ofcom took into account Practice 7.6 of the Code, which states that when a programme is edited, contributions should be fairly represented.

Ofcom considered the complaint that the email from Sony of 8 May 2006 was quoted from selectively and that relevant information from it was omitted from the programme.

Ian Wright read the following from the email in the programme:

"We thank you for considering Sony... Unfortunately your scheme does not match the criteria of our strategy. We wish you all the best with your endeavours".

Other relevant parts of the email were clearly visible on screen, albeit briefly, at the same time:

"[We thank you for considering Sony] Computer Entertainment UK in your quest for sponsors for Ian Wright's fit kids' campaign. However, although we believe it is a meritorious scheme, SCEUK has devised its sponsorship strategy for the next year."

It was a matter of editorial decision making by the programme makers which parts of the email to include in the programme and how. The issue before Ofcom was whether the contribution was fairly represented. In Ofcom's view the material

as presented fairly represented Sony's position as set out in its email of 8 May 2006, and did not in itself result in unfairness to Sony. However the issue of an appropriate and timely opportunity to respond is dealt with separately at head (d) below.

Ofcom therefore found no unfairness to Sony in this respect.

- d) Ofcom then went on to consider the complaints that Sony was not informed that its email response would be read out and that it was not given an appropriate opportunity to respond to the allegation in the programme.

In its considerations Ofcom took into account Practice 7.11, which states that, if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

Ofcom considered the first element of Sony's complaint that the company was not informed that its email response would be broadcast. Ofcom noted that there was a conflict between Sony and Channel 4 as to what was said about how the email of 8 May 2007 explaining Sony's decision not to provide funding would be used and that no contemporaneous record was provided to Ofcom of the telephone conversation about the email. Whilst Ofcom's remit is to consider and adjudicate on complaints of unfair treatment and unwarranted infringement of privacy, it is not a fact-finding tribunal and as such is not required to resolve conflicts of evidence as to the nature or accuracy of particular accounts of events where it feels it is unable to do so, rather Ofcom's duty is to consider whether the programme makers' actions resulted in the unfair treatment of Sony.

As discussed at head f) below, in Ofcom's view Sony had been clearly informed by Channel 4 about the nature and purpose of the programme and it was significant that the programme makers had dealt with Sony's public relations and corporate communications department throughout. In this context, Ofcom considered it was foreseeable that the programme would wish to make reference to what Sony had said in its email. Furthermore, as set out under c) above, it is Ofcom's view that the email provided by Sony to the programme makers was fairly represented in the programme.

Ofcom also considered whether the programme had made allegations to which an appropriate opportunity to respond should have been given. As discussed above at head a), Ofcom did not consider that it was unfair for the programme to include material in relation to Sony (namely the reference to Sony's turnover and Ian Wright's reaction to Sony's decision not to sponsor the fitness scheme). In Ofcom's view, it was suggested in the programme that the lack of fitness of one of the teenagers featured was linked to his use of his Sony PlayStation and that Sony should be approached to help with Ian Wright's project. It was also clear that Ian Wright had been hoping for a positive response from Sony and that he was disappointed that, in his view, Sony had let him down. However his expression of disappointment, as expressed in the programme, did not, in Ofcom's view, amount to an allegation of wrongdoing or other significant allegation about the company, to which the programme makers were obliged to offer it an opportunity to respond. In any event, as set out under c) above, it is Ofcom's view that the email provided by Sony to the programme makers was fairly represented in the programme.

Ofcom therefore found no unfairness to Sony in this respect.

- e) Ofcom considered Sony's complaint that the filming of the exterior of its premises and its logo was an infringement of the company's privacy in the making of the programme.

In considering this head of complaint, Ofcom took into account Practice 8.4 of the Code. Practice 8.4 says that broadcasters should ensure that words, images or actions filmed or recorded in, or broadcast from, a public place, are not so private that consent is required before broadcast from the individual or organisation concerned, unless broadcasting without their consent is warranted.

The line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

Was there an infringement of privacy?

In reaching a decision about whether Sony's privacy was infringed in the making of the programme, Ofcom first sought to establish whether Sony had a legitimate expectation of privacy. Ofcom viewed the footage of the company's premises shown in the programme and noted that the exterior of the building and the company logo were shown. In Ofcom's view it was entirely acceptable for the programme makers to film and broadcast such footage recorded from a public place. Such material was firmly in the public domain and did not require consent from the company. In these circumstances, Ofcom did not go on to consider the question of whether any infringement was warranted.

Accordingly Ofcom found no infringement of privacy in this respect.

- f) Ofcom considered Sony's complaint that inclusion of the email to the programme makers outlining the decision not to offer sponsorship was an unwarranted infringement of the company's privacy in the broadcast.

Ofcom took into account Practice 8.4 of the Code, as set out above.

Was there an infringement of privacy?

Ofcom noted that the content of Sony's email was clearly visible on screen and/or was read out by Ian Wright and that there was a clear conflict between Sony and Channel 4 as to whether Channel 4 had permission to use the email in this way: whilst Sony maintained that the email was intended only for the addressee and that it was used without Sony's permission, Channel 4 said that all company emails are routinely accompanied by confidentiality wording and that in this case the programme makers had received clear, overriding and express authorisation from a Sony representative to use the email. In the circumstances, Ofcom was unable to determine precisely what had been agreed between the parties. Furthermore, it is for the courts, not Ofcom, to determine the question of misuse of confidential information. However, Ofcom was able to consider the specific issue of whether there had been an infringement of Sony's privacy under Rule 8.1 of the Broadcasting Code.

In order to determine whether or not an infringement of privacy has occurred, Ofcom will assess first whether the complainant, in the circumstances, had a legitimate

expectation of privacy. In some circumstances, this may depend simply upon the nature of the information itself. In others it may also depend on the personal circumstances and conduct of the company or individual involved. In relation to Sony's complaint, Ofcom considered both the subject matter and content of Sony's email and the wider context in which it was provided to Channel 4. Ofcom noted that those parts of the email which were visible or read out by Ian Wright directly related to his project and request for sponsorship of the scheme (see c) above). In Ofcom's view, the email did not contain any information that was inherently private to Sony, such as information that might expose the inner workings of the company (e.g. the activities of a board meeting).

Looking at the wider context, Ofcom noted that whilst the email contained what appeared to be a standard confidentiality notice, Sony had been clearly informed by Channel 4 about the nature and purpose of the programme and it was significant that the programme makers had dealt with Sony's public relations and corporate communications department throughout. In this context, Ofcom considered it was foreseeable that the programme would wish to make reference to what Sony had said and there was no evidence that Sony specifically informed the programme makers that the content of the email was not to be referred to or included in the programme. Weighing all these factors, Ofcom did not consider that Sony had a legitimate expectation of privacy in respect of the content of the email. It followed, therefore, that there was no infringement of privacy in reading from or showing parts of the email in the programme. In these circumstances, Ofcom did not need to consider the question of whether any infringement was warranted.

Accordingly Ofcom found no infringement of privacy in this respect.

The complaints of unfair treatment and infringement of privacy were not upheld. Accordingly the complaint was not upheld.

Complaint by Ms Tasneem Southern

Lock Them Up Or Let Them Out, BBC2, 6 November 2006

Summary: Ofcom has not upheld this complaint of unwarranted infringement of privacy in the broadcast of the programme.

This programme examined the parole system and the issues surrounding early release of prisoners. It featured Mr Mukhtar Hussain who was serving his nineteenth year of a life sentence for the murder of his brother's wife in 1987. The programme stated that at his trial it was alleged that Mr Hussain had been urged to commit the murder by his mother and his sister. The programme referred to and included a wedding photograph of Mr Hussain's sister, Ms Soraya Ali, who was also convicted of the murder. The photograph also featured Mr Hussain's niece and Ms Ali's daughter, Ms Tasneem Southern.

Ms Southern complained that her privacy was unwarrantably infringed in the broadcast of the programme in that: the photograph was shown in the programme without her knowledge or consent; and, she was not told about the programme before its broadcast.

The BBC argued that: it would have been impossible for anyone who was not already aware of Ms Southern's connection with the murder case to link her to the events being discussed in the programme; and, the prospect of anyone but the principal participants being identified was so remote that there was no need to seek consent of others (including Ms Southern) who appeared in it.

Ofcom found that while the circumstances surrounding this case were personally distressing to Ms Southern, she did not have a legitimate expectation of privacy in relation to the broadcast of a photograph which was freely provided to the programme makers by the owner, and in which Ms Southern was shown only briefly and in passing, without any reference to her or her relationship to those featured in the programme. Therefore there was no infringement of her privacy

Ofcom considered that given both the nature of Ms Southern's relationship with those featured in the programme and the fact that she herself was not in any way identified in the programme, it was not incumbent on the programme makers to inform Ms Southern of the intended broadcast. Ofcom found therefore that Ms Southern did not have a legitimate expectation of privacy in this respect and there was therefore no infringement of Ms Southern's privacy in the broadcast of the programme.

Introduction

On 6 November 2006, BBC2 broadcast an edition of *Lock Them Up Or Let Them Out*, a series of three programmes that examined the parole system and the issues surrounding early release of prisoners. In this, the first programme in the series, the cases of three violent offenders were being considered by the Parole Board for England and Wales ("the Parole Board"). One of the offenders featured was Mr Mukhtar Hussain who was serving his nineteenth year of a life sentence for the murder of his brother's wife in 1987. The programme stated that at his trial it was alleged that Mr Hussain had been urged to commit the murder by his mother and his sister. The programme referred to and included a photograph of Mr Hussain's sister, Ms Soraya Ali. She was also convicted of the murder and died in prison while serving her sentence.

Mr Hussain was shown in the programme talking about his crime and his experiences inside prison. The programme also included interview footage of Mr Hussain's brother, Mr Umar Hayat (the husband of the murder victim), who argued against his early release maintaining that the sentence of life imprisonment should mean "life".

The programme included a family wedding photograph of Mr Hayat and his wife with a number of wedding guests. Amongst the people visible in the photograph were Ms Tasneem Southern and her mother, Ms Ali. Ms Southern is the niece of Mr Hussain and the daughter of Ms Ali (the two people convicted of the murder of Mr Hayat's wife). She complained that her privacy was unwarrantably infringed in the broadcast of the programme.

The Complaint

Ms Southern's case

In summary, Ms Southern complained that her privacy was unwarrantably infringed in the programme as broadcast in that:

- a) A wedding photograph in which she and her mother were featured was shown in the programme without her prior knowledge or consent and her identity was not obscured in any way.
- b) She was not told about the programme before it was transmitted and the programme's revisited of a story that concerned her mother and other family members causing her trauma, anxiety, and worry about work colleagues who may have seen the programme as a result of its broadcast.

BBC's case

In summary, and in response to Ms Southern's complaint, the BBC said that:

- a) The photograph in question was taken in 1985 at the marriage of Ms Southern's uncle, Mr Hayat, to the woman who was subsequently murdered by Mr Hussain and Ms Ali. The photograph appeared once in the programme and was on screen for a total of 13 seconds. The BBC said that the quality of the photograph was poor and that it showed a group of 25 people, 12 of whom were female. The BBC said that the programme showed a wide shot of the whole group before zooming into a close head shot of the bride and groom. It then focused on Ms Ali, before panning back to the married couple at the centre of the photograph.

The BBC said that the use of the photograph in this way should not be regarded as an infringement of Ms Southern's privacy. The BBC argued that Ms Southern was not mentioned by name and did not appear anywhere else in the programme. It said that the programme did not mention that Ms Ali had a daughter (or that Mr Hussain had a niece) nor did it mention Ms Ali by name. The BBC said that even if someone knew Ms Southern's mother was Ms Ali, it would not have been possible to have made a connection between them. Furthermore without a common name no one could make a connection between Ms Southern and those involved in the murder. The BBC said that it would have been impossible for anyone who was not already aware of Ms Southern's connection with the murder case to link her to the events being discussed in the programme.

The BBC further argued that there were some specific facts about the photograph which the BBC believed supported its view that Ms Southern's privacy was not in fact infringed: only six seconds of the time the photograph was on screen featured people other than the victim and her two killers; there were 12 females in the photograph and only two were identified; and, the photograph was taken 21 years ago and Ms Southern's appearance was likely to have changed considerably over this time. The BBC also said that, in the unlikely case that someone had been able to identify Ms Southern from the photograph, there was no way that they would have known, or been able to work out, her relationship to Mr Hussain and Ms Ali or the victim. It was impossible, the BBC said, to tell whether she was a relative or simply a guest at the wedding.

The BBC said that the only people who could have possibly identified Ms Southern from the photograph were those who already knew her or knew the people specifically mentioned in the photograph. These people would have been only too aware of the circumstances of the murder and Ms Southern's connection to the two people convicted.

In response to Ms Southern's complaint that her consent was not sought for the use of the photograph, the BBC said that permission to use the wedding photograph was given by its owner, Mr Hayat, who was the groom in the picture. As the brother of the murderer and husband of the victim, he was clearly, according to the BBC, the person most affected by the use of the photograph. The BBC said that the programme makers considered whether or not any other members of the family should be consulted about the use of the wedding photograph. However, it was decided that, in the light of the way the photograph was intended to be used, the prospect of anyone but the principal participants being identified was so remote that there was no need to seek the consent of others who appeared in it.

- b) The BBC referred to Practice 8.19 of the Code which states that broadcasters should try to reduce the potential distress to victims and/or relatives when making or broadcasting programmes intended to examine past events that involve trauma to individuals (including crime) unless it is warranted to do otherwise. In particular, so far as is reasonably practicable, surviving victims, and/or the immediate families of those who experience is to feature in a programme, should be informed of the plans for the programme and its intended broadcast, even if the events or material to be broadcast have been public domain in the past.

The BBC said that it understood that the primary intention of Practice 8.19 of the Code, insofar as it referred to crime, was that it was designed to protect people "who are the victims of an offence". If it were understood to apply in the same way to the "relatives of those responsible for criminal acts", it would place onerous new obligations on programmes which revisit past events, as well as implying similar obligations in relation to the relatives of criminals in the contemporaneous reporting of crime. The BBC said that although Ms Southern was related to the murder victim for the duration of her brief marriage and that the events of 20 years ago could hardly be anything other than distressing for her, her status was not primarily that of a victim or relative of a victim.

The BBC said that the programme makers considered carefully who should be consulted or notified before the programme was broadcast. Given the focus of the programme, Mr Hussain and Mr Hayat were clearly the two people most directly affected. No other members of the family were named or referred to in the programme and Mr Hayat, as the husband of the victim, was clearly the

person with the most claim to be kept fully informed of the content of the programme. The BBC said that Mr Hayat had assured the programme makers that he would pass on information about the programme to other family members as appropriate. In the circumstances, the BBC said that the programme makers thought the matter was best left to Mr Hayat's judgement.

The BBC said that if Ofcom believed that there was an infringement of Ms Southern's privacy in relation to the considerations set out in Practice 8.19 of the Code, it should be balanced against the public interest served by the programme. The BBC said that the issue of whether serious offenders should be released on parole was one which warranted investigation. The programme raised questions about the process of granting early release to convicted prisoners which were always serious because of considerations of public safety, and which were particularly relevant at a time of rising prison populations and potential prison overcrowding. The BBC said that the programme also drew attention to the controversial fact that the views of victims' families were not heard, even though the parole panel could call witnesses. This was explored in the interview with Mr Hayat.

The BBC said that it was a reasonable inference for it to make, given the comments in Ms Southern's complaint about wanting to keep the murder "under wraps" that, if she had been notified about the programme in advance, she would have objected to its transmission. The BBC said that although it understood that the murder and its consequences had been a source of distress to Ms Southern, it was, for the reasons already given, that the BBC believed that it would not have been right to allow her objections to prevail over the public interest served by broadcasting it.

The BBC said that it understood Ms Southern's concern that her work colleagues would have been able to recognise her from the photograph. However, for the reasons already given, it would hardly be possible for anyone not already aware of her connection to the murder to have identified Ms Southern from the very brief use of a poor quality wedding photograph taken more than 20 years ago. The BBC said that it was noted that Ms Southern had not stated whether or not anyone did, in fact, identify her as a result of the programme.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unwarrantable infringement of privacy in the making and broadcast of programmes included in such services.

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

This case was considered by Ofcom's Executive Fairness Group. Ofcom considered the complaint, with supporting material, and the broadcaster's response, together with supporting material and a recording and transcript of the programme as broadcast. In its considerations, Ofcom took account of the Code.

In Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions. First, has there been an infringement of privacy? Second, if so, was it warranted? (Rule 8.1 of the Code).

In the circumstances of this case, Ofcom found the following:

- a) Ofcom considered Ms Southern's complaint that a wedding photograph containing her image was shown in the programme without her knowledge or consent and that her identity was not obscured in any way.

In its considerations Ofcom took account of Practice 8.6 of the Code which states that if the broadcast of a programme would infringe the privacy of a person or an organisation, consent should be obtained before the relevant material is broadcast, unless the infringement is warranted.

In deciding this element of Ms Southern's complaint, Ofcom first considered whether or not Ms Southern had a legitimate expectation of privacy concerning the use of a wedding photograph in which she appeared without being obscured.

In this regard the Code states that "Legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and whether the individual concerned is already in the public domain".

Ofcom recognised the personal distress caused to Ms Southern by the programme revisiting the events surrounding the murder and the part her mother and one of her uncles had had in it, and noted that Ms Southern's image was shown in the photograph. However, Ofcom also acknowledged that the photograph was owned, and freely provided to the programme makers, by Mr Hayat, the husband of the murder victim. Ofcom also noted that Ms Southern was not named in the programme, nor otherwise referred to, nor was any connection made between her, the victim, or those convicted of murder. In Ofcom's view her image was shown briefly, in passing, as part of a group photo taken some 20 years before the programme was broadcast and was incidental to the main subjects of the picture.

Ofcom concluded that while the circumstances surrounding this case were personally distressing to Ms Southern, she did not have a legitimate expectation of privacy in relation to the broadcast of a photograph which was freely provided to the programme makers by the owner, and in which Ms Southern was shown only briefly and in passing, without any reference to her or her relationship to those featured in the programme.

Given the finding that in these circumstances Ms Southern did not have a legitimate expectation of privacy, and her privacy was not therefore infringed in the broadcast of the programme, it was not necessary for Ofcom to go on to consider whether or not any infringement was warranted.

- b) Ofcom considered Ms Southern's complaint that she was not told about the programme which revisited a story that caused her anxiety as a result.

In its considerations Ofcom took account of Practice 8.19 of the Code which states that broadcasters should try to reduce the potential distress on victims

and/or relatives when making or broadcasting programmes intended to examine past events that involve trauma to individuals (including crime) unless it is warranted to do otherwise. In particular, so far as is reasonably practicable, surviving victims, and/or the immediate families of those who experience it to feature in a programme, should be informed of the plans for the programme and its intended broadcast, even if the events or material to be broadcast have been public domain in the past.

In considering this element of Ms Southern's complaint, Ofcom first considered whether or not she had a legitimate expectation of privacy concerning the programme revisiting a past event that involved her mother and other members of her family without informing her in advance of the broadcast.

As discussed above at head a) Ofcom acknowledged the personal distress caused to Ms Southern by the programme revisiting the events surrounding the murder, and the part her mother and one of her uncles had had in it. Ofcom also noted the BBC's submission which stated that careful consideration had been given to which family members should be informed of the programme, prior to broadcast, in accordance with Practice 8.19 of the Code. In Ofcom's view, in the particular circumstances of this case, and given both the nature of Ms Southern's relationship with those featured in the programme and the fact that she herself was not in any way identified in the programme, it was not in Ofcom's view incumbent on the programme makers to inform Ms Southern of the intended broadcast.

Ofcom therefore found that Ms Southern did not have a legitimate expectation of privacy in this respect and there was therefore no infringement of Ms Southern's privacy in the broadcast of the programme. In these circumstances, it was not necessary for Ofcom to go on to consider whether or not any infringement was warranted.

Accordingly, Ofcom has not upheld Ms Southern's complaint of unwarranted infringement of privacy in the broadcast of the programme.

Complaint by Ms Janet Tomlinson

Crimewatch Solved, BBC1, 23 August 2006

Summary: Ofcom has not upheld this complaint of unfair treatment by Ms Tomlinson.

This episode of *Crimewatch Solved* revisited a case entitled “The Newchurch body-snatchers” which concerned a group of four animal-liberation protesters who, it is alleged, exhumed the body of Mrs Gladys Hammond, mother-in-law of the owner of Darley Oaks Farm (“the farm”) which reared guinea pigs for research establishments. The item focused primarily upon the four protesters who the police suspected of exhuming the body. These protestors were later found guilty of conspiracy to blackmail the owner of the farm.

Ms Tomlinson complained that the programme unfairly led viewers to believe that protesters (of whom Ms Tomlinson said she was one) were responsible for the exhumation of Mrs Hammond’s body despite there being no evidence to prove it. Ms Tomlinson also complained that the programme unfairly contained incorrect information about the difference in the number of protesters who had been demonstrating at the farm before and after the exhumation and unfairly alleged that the six protesters (of whom Ms Tomlinson said she was one) who continued to demonstrate after the exhumation were “hardcore” and “in the main involved in criminality”.

Ofcom found that the programme was not unfair to Ms Tomlinson in that she was not named, referred to or otherwise featured in the programme, nor was she linked with the exhumation of Mrs Hammond’s body at any point in the programme as broadcast. Ofcom found that the programme makers took reasonable steps to satisfy themselves that the information they had presented in the programme as broadcast regarding the difference in numbers of protesters before and after the exhumation was not misleading, and this did not lead to any unfairness to Ms Tomlinson. Furthermore Ofcom found that Ms Tomlinson was not linked to criminality nor was she linked to any protestors involved in criminality and therefore no unfair treatment resulted to her.

Introduction

On 23 August 2006, the BBC broadcast an episode of *Crimewatch Solved* that revisited a case that was entitled “The Newchurch body-snatchers”, which concerned a group of four animal-liberation protesters who were implicated in the exhumation of the body of Mrs Gladys Hammond. Mrs Hammond was the mother-in-law of the owner of a farm, which reared guinea pigs for research establishments. The item focused primarily on the four protesters who the police suspected of exhuming the body. They were later found guilty of conspiracy to blackmail the owner of the farm and were sentenced to between four and twelve years imprisonment.

Ms Tomlinson did not appear in the programme but complained that as one of those who protested at the farm she was treated unfairly in the programme as broadcast.

The Complaint

Ms Tomlinson’s case

In summary, Ms Tomlinson complained that she was treated unfairly in the programme as broadcast in that:

- a) The programme led viewers to believe that protesters were responsible for the exhumation of Mrs Hammond's body despite there being no evidence to prove it and that Ms Tomlinson was therefore unfairly associated with this responsibility.
- b) The programme unfairly contained incorrect information about the difference in the number of protesters that had been demonstrating at the farm before and after the exhumation; and unfairly suggested, through an interview with police Inspector Bird, that the six protesters who continued to demonstrate after the exhumation were "hardcore" and "in the main involved in criminality". Ms Tomlinson said that she was one of these protesters who continued to demonstrate and that she has not been charged with a criminal offence nor does she have a criminal conviction.

The BBC's case

In summary, the BBC responded to the complaint as follows:

- a) The BBC stated that the issue of who was responsible for the exhumation of Mrs Hammond's body was the subject of extensive questioning during the court case of the four main protesters. The BBC said that evidence was produced by the Crown during the trial linking those found guilty of conspiracy to blackmail the farm's owner to the exhumation, and on that basis, the programme used this evidence (along with information provided by the police) to build a comprehensive case linking the protesters and the exhumation.

The BBC's statement went on to explain that *"For months, activists contacted the owners of the farm (the Halls), telling them the body would be returned if they closed the farm. The body was only recovered after one of those found guilty of conspiracy to blackmail, John Smith, told the authorities where it was"*. The BBC also stated that *"the investigating officer, Detective Inspector Nick Baker, was quoted in the programme as saying: 'The control over the protest at Darley Oaks was under the guise of a movement referred to as 'Save the Newchurch Guinea Pigs'. It became quite obvious that if something of this nature [the exhumation of Mrs Hammond's body] had taken place, they had to have some involvement in it'".* The BBC maintained that in the final summing up of the court case Judge Michael Pert QC directly linked the four protesters on trial with the exhumation of Mrs Hammond's body in saying, *"The lowest point of your campaign was the theft of Gladys Hammond's body. You not only disinterred her but kept her family on tenterhooks as to whether you would return her body"*. On this basis, the BBC was of the view that it did not breach sections 7.9 and 7.10 of the Code, which relate to the broadcaster's responsibility to relay facts in a fair and balanced way so as to avoid unfairness to any individual or organisation. The BBC stated that there was no case to argue that the producers of *Crimewatch Solved* did not take all reasonable care to ensure that the material facts were presented in a manner entirely fair to the protesters, including Ms Tomlinson.

With regard to Ms Tomlinson's concerns that the programme implicated her in the exhumation, the BBC stated that she was never identified in the programme in any way, so there was no reason why viewers would have connected her to the exhumation. The BBC has said that although the programme did refer to protesters in general, the programme made it clear that the protesters implicated

in the exhumation of the body were those four protesters found guilty of conspiracy to blackmail.

- b) In relation to the complaint concerning the number of protesters the BBC stated that Inspector Bird, who co-ordinated the police presence at the farm during protests, was quoted as saying *"before the grave desecration, there were protests every Sunday and those attracted between 30 and 50 people. After the desecration that changed very dramatically, numbers dropped significantly down to on some occasions less than six, but those people that did continue to come were in the main, those that were involved in criminality"*. The BBC also said that Inspector Bird provided details of the number of protesters who attended each protest in 2004 from police records, and argued that these records showed that in the seven weeks prior to the exhumation on 5 October 2004, an average of 18.4 protesters per day were attending protests at the farm, and that for the seven weeks after the exhumation only an average of 11.3 protesters per day were attending protests at the farm. The records also showed that aside from the protest that took place the week after the exhumation, on 10 October 2004, it was some three weeks before another demonstration took place on 31 October 2004.

The BBC argued that these records confirm that the number of protests as well as protesters did drop following the exhumation of the body. The BBC also pointed out that Inspector Bird did not say, as claimed by Ms Tomlinson, that there *"were always six or less"* protesters at the farm after the exhumation, but in fact said *"...on some occasions (there were) less than six..."* as quoted above. Finally, the BBC added that the programme made no value judgment or comment on the falling number of protesters, therefore in its view the producers of *Crimewatch Solved* did not fail to take *"reasonable care to satisfy themselves that the material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation"* as discussed in the Code.

In relation to the complaint regarding six remaining protesters being "involved in criminality", the BBC stated that this quote appeared immediately after a sequence in which two of the protesters who were convicted of conspiracy to blackmail were shown arriving at the farm on the day after the exhumation. The BBC argued that on this basis viewers of the programme would have been left with the impression that the protesters referred to by Inspector Bird in the above quote were those four protesters discussed at head a), who had by that time been found guilty of criminal offences connected to the protests. The BBC stated that there was nothing in the programme to link Inspector Bird's comments with Ms Tomlinson, nor was Ms Tomlinson identified in the programme in any way. The BBC also highlighted that Inspector Bird did not say that all the protesters had been involved in criminality.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes included in such services.

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

This complaint was considered by Ofcom's Executive Fairness Group. In reaching a decision Ofcom considered a recording and transcript of the programme and the submissions of both parties.

Ofcom's findings in relation to the complainant's specific heads of complaint are outlined below:

- a) Ofcom first considered Ms Tomlinson's complaint that it was unfair to her that the programme led viewers to believe that she, as one of the protesters taking part in the protests at the farm, was partly responsible for the exhumation of Mrs Hammond's body, despite there being no evidence to prove it.

In its considerations, Ofcom took account of Practice 7.9 of the Code which states 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 an individual or organisation.

Ofcom noted that Ms Tomlinson did not appear in the programme as broadcast, was at no time identified either as one of the main protesters or in any other way, nor was she at any time linked with, or portrayed as responsible for, the exhumation of Mrs Hammond's body. Ofcom was satisfied that the protesters identified by name in the programme were the four main protesters who were convicted of conspiracy to blackmail the owner of the farm (Ms Tomlinson was not one of the four). Ofcom also noted that in its response the BBC stated that the judge in his summing up at the trial directly linked the four main protesters with the exhumation of Mrs Hammond's body.

On this basis, Ofcom has taken the view that the broadcaster took reasonable care to satisfy itself that material facts in the programme as broadcast, regarding the exhumation of Mrs Hammond's body, were presented in accordance with practice 7.9 of the Code discussed above. Ofcom found the programme did not portray Ms Tomlinson as being responsible for, or linked to those responsible for, the exhumation of Mrs Hammond's body in the programme as broadcast. Ofcom therefore found no unfairness to Ms Tomlinson in this respect.

- b) Ofcom next considered Ms Tomlinson's complaint that the programme as broadcast unfairly contained incorrect information about the difference in the numbers of protesters that had been demonstrating at the farm both before and after the exhumation, and linked six protesters who continued to protest at the farm, of which Ms Tomlinson stated she was one, to "criminality".

As discussed above, in its considerations Ofcom took account of Practice 7.9 of the Code.

Ofcom noted that the information presented in the programme as broadcast was taken from police records from the time of the protests at the farm, and a copy of these records was provided to Ofcom by the BBC in their response to this point of Ms Tomlinson's complaint. In Ofcom's view it was clear that detailed information regarding the frequency of the protests and the number of protesters was kept by police at the time of the protests at the farm. Ofcom was satisfied that these records detailed how the numbers of protestors fell after the exhumation of Mrs Hammond's body. Ofcom noted that in the recording of the

programme Inspector Bird stated that “...numbers [following the exhumation] dropped significantly down to on some occasions less than six...”. In Ofcom’s view the Inspector’s statement was from a credible source, supported by the background material provided in the BBC’s submission, and in any event the reference resulted in no unfairness to Ms Tomlinson who was neither named nor otherwise referred to or featured in the programme.

Ofcom then went on to consider the further element of Ms Tomlinson’s complaint that the programme as broadcast suggested through Inspector Bird’s comments that she, as one of the remaining protesters at the farm following the exhumation, was “hardcore” and “in the main involved in criminality”.

Ofcom noted as discussed above that Ms Tomlinson was not a participant in the programme as broadcast; she was not referred to by name nor was she identified or referred to in any way as one of the remaining six protesters at the farm after the exhumation of Mrs Hammond’s body.

Ofcom considered a recording of the programme. The sequence in which Inspector Bird referred to “criminality” began with footage being shown of four of the remaining protesters at the farm, namely those four protesters who had been tried for and convicted of conspiracy to blackmail the owner of the farm. Ofcom noted the BBC’s submission which stated that these four protesters were also directly linked with the exhumation of Mrs Hammond’s body during the judge’s summing up at their trial.

Ofcom noted that Inspector Bird’s statement that “.....numbers (of protesters) dropped significantly down to on some occasions less than six, but those people that did continue to come were, in the main, those that were involved in criminality”, was made directly after the footage of the four convicted protesters had been shown. In Ofcom’s view no link was made in the programme between the four convicted protesters and Ms Tomlinson and no link was made between Ms Tomlinson and “criminality”. Also, Ofcom noted that Inspector Bird did not say that the six remaining protesters were involved in “criminality”, in the broadcast programme he stated that those protesters, who continued to protest after the exhumation, were “in the main” involved in criminality, and no reference, pictorial or otherwise, was made to Ms Tomlinson. On this basis, Ofcom found no unfairness to Ms Tomlinson in this respect.

Accordingly, Ms Tomlinson’s complaint of unfair treatment in the programme as broadcast was not upheld.

Other Programmes Not in Breach/Out of Remit

3 to 31 August 2007

Programme	Trans Date	Channel	Category	No of complaints
3 Minute Wonder	16/08/2007	More 4	Sex/Nudity	1
4 Music: V Festival 2007	18/08/2007	Channel 4	Generally Accepted Standards	1
8 Out Of 10 Cats	20/07/2007	Channel 4	Generally Accepted Standards	2
8 Out Of 10 Cats	26/07/2007	Channel 4	Generally Accepted Standards	1
A Place in Spain: Costa Chaos	17/08/2007	Channel 4	Offensive Language	1
Afternoon Show	07/08/2007	Nevis Radio	Generally Accepted Standards	1
Alan Brazil's Sports Breakfast	18/06/2007	Talksport	Generally Accepted Standards	1
Alison Bell	10/08/2007	LBC	Inaccuracy/Misleading	1
America's Got Talent (trailer)	01/07/2007	ITV2	Animal Welfare	1
American Idol (trailer)	17/05/2007	ITV2	Flashing images	1
BBC Breakfast	14/08/2007	BBC1	Crime (incite/encourage)	1
BBC News	26/07/2007	BBC1	Generally Accepted Standards	2
BBC News	19/07/2007	BBC1	Generally Accepted Standards	1
BBC News 24	12/07/2007	BBC News 24	Generally Accepted Standards	1
BBC News 24	14/07/2007	BBC News 24	Religious Issues	1
Britain's Next Top Model	30/07/2007	Living TV	Generally Accepted Standards	1
Bam Bam	18/07/2007	Capital 95.8 FM	Generally Accepted Standards	1
Big Brother 8	03/08/2007	Channel 4	Sex/Nudity	2
Big Brother 8	06/08/2007	Channel 4	Harm/Food	2
Big Brother 8	10/08/2007	Channel 4	Offensive Language	1
Big Brother 8	25/07/2007	Channel 4	Generally Accepted Standards	1
Big Brother 8	18/07/2007	Channel 4	Generally Accepted Standards	3
Big Brother 8	27/07/2007	Channel 4	Generally Accepted Standards	1
Big Brother 8 Live	06/08/2007	Channel 4	Generally Accepted Standards	1
Big Brother's Big Mouth	16/08/2007	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	03/08/2007	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	20/07/2007	E4	Generally Accepted Standards	4
Big Brother's Little Brother (trailer)	07/08/2007	E4	Generally Accepted Standards	1
CSI:NY	09/06/2007	Five	Undue Prominence	1
Capital Breakfast	08/08/2007	Capital 95.8FM	Crime (incite/encourage)	1

Capital FM Breakfast Show	05/07/2007	Capital FM	Generally Accepted Standards	1
Captain Scarlet	26/07/2007	CITV	Violence	1
Carl Spencer	19/07/2007	Galaxy 102	Religious Offence	1
Caspers Scare School	23/07/2007	Boomerang	Offensive Language	1
Casualty	28/07/2007	BBC1	Substance Abuse	4
Casualty	28/07/2007	BBC1	Generally Accepted Standards	1
Channel 4 News	22/05/2007	Channel 4	Inaccuracy/Misleading	1
Channel 4 News	13/08/2007	Channel 4	Generally Accepted Standards	1
Channel 4 News	23/07/2007	Channel 4	Violence	1
Chris Moyles Show	18/07/2007	BBC Radio 1	Offensive Language	2
Chris Moyles Show	22/08/2007	BBC Radio 1	Generally Accepted Standards	1
Come Dine With Me	12/08/2007	Channel 4	Animal Welfare	1
Come Dine With Me	12/08/2007	Channel 4	Offensive Language	1
Committed	07/08/2007	Five	Religious Offence	2
Coronation Street	13/08/2007	ITV1	Religious Offence	1
Coronation Street	13/08/2007	ITV1	Offensive Language	1
Coronation Street	20/08/2007	ITV1	Inaccuracy/Misleading	1
Coronation Street	20/08/2007	ITV1	Generally Accepted Standards	1
Coronation Street	20/08/2007	ITV1	Offensive Language	1
Coronation Street	20/07/2007	ITV1	Inaccuracy/Misleading	1
Coronation Street	03/08/2007	ITV1	Generally Accepted Standards	1
Crimewatch	20/08/2007	BBC1	Generally Accepted Standards	3
DanceX	21/07/2007	BBC1	Generally Accepted Standards	3
DanceX	21/07/2007	BBC1	Sex/Nudity	1
Dancing with the Stars	29/07/2007	BBC1	Generally Accepted Standards	1
Deadliest Police Shootouts (trailer)	25/07/2007	Bravo	Generally Accepted Standards	1
Derren Brown	17/07/2007	Channel 4	Generally Accepted Standards	1
Dexter	02/07/2007	Sky One	Scheduling	1
Dexter (trailer)	08/07/2007	FX	Scheduling	1
Diary of a Call Girl (trailer)	18/08/2007	ITV1	Generally Accepted Standards	1
Diary of a Call Girl (trailer)	18/08/2007	ITV1	Sex/Nudity	1
Diddy Dick and Dom	17/06/2007	CBBC	Dangerous Behaviour	1
Dispatches: Undercover Mother	23/07/2007	Channel 4	Inaccuracy/Misleading	3
Do Something Different	17/08/2007	BBC2	Dangerous Behaviour	1
Eastenders	19/07/2007	BBC1	Generally Accepted Standards	1
Eastenders	20/07/2007	BBC1	Violence	2
Eastenders	24/07/2007	BBC1	Generally Accepted Standards	2
Eastenders	02/08/2007	BBC1	Substance Abuse	2
Eastenders	03/08/2007	BBC1	Generally Accepted Standards	2
Eastenders	23/07/2007	BBC1	Offensive Language	1
Eastenders	20/07/2007	BBC1	Generally Accepted Standards	1

Emmerdale	30/07/2007	ITV1	Animal Welfare	1
Emmerdale	08/08/2007	ITV1	Generally Accepted Standards	1
Emmerdale	31/07/2007	ITV1	Generally Accepted Standards	1
Emmerdale	22/08/2007	ITV1	Generally Accepted Standards	1
Emmerdale	17/07/2007	ITV1	Generally Accepted Standards	1
Emmerdale	17/08/2007	ITV1	Violence	1
Enemies of Reason	13/08/2007	Channel 4	Religious Offence	1
F1 Grand Prix trailer	22/07/2007	ITV1	Generally Accepted Standards	1
Fetishes	24/07/2007	More4	Generally Accepted Standards	1
Fifth Gear	02/07/2007	Five	Generally Accepted Standards	1
Fonejacker	09/08/2007	E4	Generally Accepted Standards	2
Friday Night Project	17/08/2007	C4	Generally Accepted Standards	1
GMTV	23/07/2007	ITV1	Generally Accepted Standards	1
GMTV	02/08/2007	ITV1	Dangerous Behaviour	2
GMTV	03/08/2007	ITV1	Violence	1
Gavin Stamp's Orient Express	22/05/2007	Five	Generally Accepted Standards	1
Generation Xcess: Violence and Drugs	10/06/2007	ITV2	Crime (incite/encourage)	1
George Galloway	06/08/2007	Talksport	Due Impartiality/Bias	1
George Galloway	06/08/2007	Talksport	Offensive Language	1
George Galloway	23/06/2007	Talksport	Religious Offence	1
Grimebusters	13/08/2007	ITV1	Generally Accepted Standards	1
Guarding the Queen	24/07/2007	ITV1	Generally Accepted Standards	1
Hearts vs Hibernian	06/08/2007	Setanta Sports 1	Generally Accepted Standards	1
Heroes (trailer)	12/07/2007	BBC1	Dangerous Behaviour	1
Holby City	07/08/2007	BBC1	Substance Abuse	2
Holby City	07/08/2007	BBC1	Generally Accepted Standards	1
Hollyoaks	04/07/2007	Channel 4	Violence	1
Homes Under the Hammer	07/08/2007	BBC1	Generally Accepted Standards	1
House	26/07/2007	Five	Generally Accepted Standards	1
How to Be a Property Developer	16/08/2007	Five	Offensive Language	1
I Predict a Riot	19/07/2007	Bravo	Generally Accepted Standards	1
ITV News	31/07/2007	ITV1	Generally Accepted Standards	1
ITV News	10/08/2007	ITV1	Generally Accepted Standards	2
ITV News	10/07/2007	ITV1	Generally Accepted Standards	1
ITV News	23/07/2007	ITV1	Due Impartiality/Bias	1
ITV News	22/07/2007	ITV1	Inaccuracy/Misleading	1

ITV News	09/08/2007	ITV1	Generally Accepted Standards	1
ITV News	13/08/2007	ITV1	Generally Accepted Standards	1
ITV News	17/07/2007	ITV1	Generally Accepted Standards	1
ITV News trail	26/07/2007	ITV1	Generally Accepted Standards	1
Ian Wright	07/08/2007	Talksport	Generally Accepted Standards	1
Immigration Housing Row: Tonight	02/07/2007	ITV1	Generally Accepted Standards	1
Immigration Housing Row: Tonight	02/07/2007	ITV1	Due Impartiality/Bias	1
Jack Osbourne: Adrenalin Junkie	18/08/2007	ITV2	Generally Accepted Standards	1
James Whale	06/08/2007	Talksport	Religious Offence	1
James Whale	20/08/2007	Talksport	Generally Accepted Standards	1
Jamie at Home (trailer)	24/07/2007	Channel 4	Generally Accepted Standards	1
Jamie at Home (trailer)	25/07/2007	Channel 4	Generally Accepted Standards	1
Jamie at Home (trailer)	12/07/2007	Channel 4	Generally Accepted Standards	1
Jamie at Home (trailer)	01/08/2007	Channel 4	Generally Accepted Standards	1
Jekyll (trailer)	20/07/2007	BBC1	Generally Accepted Standards	1
Jeremy Kyle	15/08/2007	ITV1	Generally Accepted Standards	1
Jeremy Vine Show	23/07/2007	BBC Radio 2	Generally Accepted Standards	1
Jon Gaunt	13/07/2007	Talksport	Generally Accepted Standards	2
Jon Gaunt	01/08/2007	Talksport	Generally Accepted Standards	1
Jon Gaunt	27/07/2007	Talksport	Generally Accepted Standards	1
Jon Gaunt	16/07/2007	Talksport	Generally Accepted Standards	1
Just A Minute	12/08/2007	BBC Radio 4	Offensive Language	1
Kahaani Ghar Ghar Ki	12/07/2007	Star Plus	Generally Accepted Standards	1
Last Man Standing	24/07/2007	BBC3	Animal Welfare	1
Last Man Standing	17/07/2007	BBC3	Animal Welfare	1
Law and Order (trailer)	15/07/2007	Sky Travel	Generally Accepted Standards	1
Lenny's Britain	03/07/2007	BBC1	Generally Accepted Standards	2
Lenny's Britain	03/07/2007	BBC1	Offensive Language	1
Let's Talk Sex	23/03/2007	Channel 4	Inaccuracy/Misleading	1
Little Britain Down Under	27/07/2007	BBC1	Generally Accepted Standards	2
Little Britain Down Under	27/07/2007	BBC1	Sex/Nudity	1
Little Devil	13/08/2007	ITV1	Violence	1
London Tonight	14/07/2007	ITV1	Offensive Language	4
London Tonight	23/07/2007	ITV1	Inaccuracy/Misleading	1

Loose Women	24/07/2007	ITV1	Generally Accepted Standards	2
Loose Women	18/07/2007	ITV1	Generally Accepted Standards	1
Loose Women	25/07/2007	ITV1	Generally Accepted Standards	1
Loose Women	09/07/2007	ITV1	Generally Accepted Standards	1
Make Your Play	24/07/2007	ITV1	Competitions	1
Martin Collins Show	25/07/2007	Smooth Radio	Generally Accepted Standards	1
Michael Holden	11/08/2007	LBC	Animal Welfare	1
Mike George Gardening Show	14/07/2007	BBC Hereford	Generally Accepted Standards	1
Mike Mendoza	16/07/2007	Talksport	Generally Accepted Standards	1
Mike Parry	10/08/2007	Talksport	Animal Welfare	1
Mike Parry	10/08/2007	Talksport	Generally Accepted Standards	1
Mock the Week	19/07/2007	BBC2	Generally Accepted Standards	1
Mock the Week	12/07/2007	BBC2	Generally Accepted Standards	1
My Parents Are Aliens	18/08/2007	ITV1	Generally Accepted Standards	1
My Parents Are Aliens	06/08/2007	CITV	Violence	1
My Parents Are Aliens	18/08/2007	ITV1	Sex/Nudity	1
News	05/08/2007	BBC Radio 4	Inaccuracy/Misleading	1
Nazi Pop Twins	19/07/2007	Channel 4	Due Impartiality/Bias	1
News Knight With Sir Trevor McDonald	22/07/2007	ITV1	Generally Accepted Standards	2
News Knight With Sir Trevor McDonald	29/07/2007	ITV1	Generally Accepted Standards	1
News Knight With Sir Trevor McDonald	19/07/2007	ITV1	Religious Offence	1
News Knight With Sir Trevor McDonald	19/07/2007	ITV1	Generally Accepted Standards	1
News Knight With Sir Trevor McDonald	09/08/2007	ITV1	Due Impartiality/Bias	1
News Knight With Sir Trevor McDonald	26/07/2007	ITV1	Generally Accepted Standards	1
Newsnight	26/07/2007	BBC2	Dangerous Behaviour	1
Newsnight	19/07/2007	BBC2	Generally Accepted Standards	1
Nick Ferrari	07/08/2007	LBC	Generally Accepted Standards	2
Nick Ferrari Breakfast Show	27/07/2007	LBC	Generally Accepted Standards	1
Panorama	23/07/2007	BBC1	Generally Accepted Standards	1
Paul Ross	02/08/2007	LBC	Generally Accepted Standards	5
Pororo the Little Penguin	09/08/2007	Cartoonito	Offensive Language	1
Promotion for Premiership coverage	08/08/2007	BBC Radio Five Live	Inaccuracy/Misleading	1
Quizcall	22/07/2007	Five	Competitions	1
Quizcall	15/07/2007	Five	Competitions	1

Quizcall	21/07/2007	Five	Competitions	1
Quizcall	30/06/2007	Five	Competitions	1
Quizcall	04/08/2007	Five	Inaccuracy/Misleading	1
R Mornings	25/07/2007	Revelation TV	Generally Accepted Standards	1
Radio 1 in Tenerife	21/07/2007	BBC Radio 1	Generally Accepted Standards	1
Real Drive Home	17/07/2007	Real Radio Scotland	Generally Accepted Standards	1
Richard & Judy	07/08/2007	Channel 4	Crime (incite/encourage)	1
Richard & Judy	03/08/2007	Channel 4	Generally Accepted Standards	1
Richard & Judy	15/08/2007	Channel 4	Offensive Language	1
Richard & Judy	01/08/2007	Channel 4	Animal Welfare	2
Richard & Judy	14/08/2007	Channel 4	Offensive Language	1
Richard & Judy	17/07/2007	Channel 4	Due Impartiality/Bias	1
Richard & Judy	18/07/2007	Channel 4	Animal Welfare	1
Richard & Judy	10/07/2007	Channel 4	Generally Accepted Standards	1
Rick Jackson In The Morning (trail)	04/08/2007	Ocean FM	Offensive Language	1
Road Wars	31/07/2007	Sky One	Crime (incite/encourage)	1
Rock of Love	21/07/2007	VH1	Generally Accepted Standards	1
Rugby League	29/07/2007	BBC2	Generally Accepted Standards	1
Rugby League Challenge Cup	28/07/2007	BBC1	Sex/Nudity	1
Sally Morgan: Star Psychic	01/08/2007	ITV1	Inaccuracy/Misleading	1
Sarah Kennedy's Dawn Patrol	01/08/2007	BBC Radio 2	Generally Accepted Standards	3
Saturday Morning Kitchen	28/07/2007	BBC1	Generally Accepted Standards	1
Scott Mills	06/08/2007	BBC Radio 1	Generally Accepted Standards	2
Sensitive Skin	03/07/2007	BBC2	Generally Accepted Standards	1
Severn Sound	05/08/2007	Severn Sound	Offensive Language	1
Shipwrecked 2007: Battle of the Islands	26/07/2007	Channel 4	Generally Accepted Standards	1
Silk FM	16/05/2007	Silk FM	Competitions	1
Sky News	03/08/2007	Sky News	Generally Accepted Standards	1
Sky News	03/07/2007	Sky News	Generally Accepted Standards	1
Sponsorship of ITV Weather	22/07/2007	ITV1	Dangerous Behaviour	2
Sports promotion	15/07/2007	ITV2	Generally Accepted Standards	1
Sportsound	04/08/2007	BBC Radio Scotland	Generally Accepted Standards	1
Star Stories	10/08/2007	Channel 4	Generally Accepted Standards	2
Stephen Nolan Show	07/08/2007	BBC Radio Ulster	Generally Accepted Standards	1
Street Crime UK	29/07/2007	FTN	Offensive Language	1
Street Wars	30/06/2007	Sky Three	Generally Accepted Standards	1
Sumo TV	25/04/2007	Sumo TV	Violence	1

Swedish Premier league promo	15/08/2007	Kanal 9	Violence	1
TV Heaven, Telly Hell	06/08/2007	Channel 4	Generally Accepted Standards	1
Teen Body Obsession: Too Much Too Young	24/07/2007	ITV1	Generally Accepted Standards	1
Television X	-	Television X	Inaccuracy/Misleading	1
The Agenda	10/08/2006	Islam Channel	Offensive Language	1
The Big Fight Live: WBO World Cruiseweight Championship	21/07/2007	ITV1	Advertising	1
The Bill	18/07/2007	ITV1	Generally Accepted Standards	1
The Bill	18/07/2007	ITV1	Violence	1
The Bill	19/07/2007	ITV1	Generally Accepted Standards	1
The Breakfast Show	27/07/2007	Southern FM	Generally Accepted Standards	1
The Diet Doctors Inside and Out	01/08/2007	Five	Inaccuracy/Misleading	1
The Diet Doctors Inside and Out	25/07/2007	Five	Inaccuracy/Misleading	1
The Diet Doctors Inside and Out	15/08/2007	Five	Animal Welfare	1
The Dog Whisperer	20/07/2007	Sky Three	Animal Welfare	1
The Friday Night Project	10/08/2007	C4	Generally Accepted Standards	4
The Hive	13/08/2007	Sky One	Generally Accepted Standards	1
The Jeremy Kyle Show	07/08/2007	ITV1	Generally Accepted Standards	1
The Jeremy Vine Show	26/07/2007	BBC Radio 2	Crime (incite/encourage)	1
The Morning Line	28/07/2007	C4	Generally Accepted Standards	1
The Now Show	20/07/2007	BBC Radio 4	Religious Offence	2
The ONE Show	27/07/2007	BBC1	Generally Accepted Standards	1
The Pulse	19/07/2007	New Style Radio	Violence	1
The Restaurant (trailer)	16/08/2007	BBC2	Generally Accepted Standards	1
The Simpsons	22/06/2007	Channel 4	Generally Accepted Standards	1
The Slammer	18/08/2007	BBC2	Crime (incite/encourage)	1
The Tower	16/07/2007	BBC1	Generally Accepted Standards	1
The Tower	30/07/2007	BBC1	Substance Abuse	1
The X Factor	18/08/2007	ITV1	Generally Accepted Standards	2
The X Factor	19/08/2007	ITV2	Generally Accepted Standards	1
Tim Shaw's Asylum	13/08/2007	Kerrang Radio	Generally Accepted Standards	1
Titanic	22/07/2007	BBC2	Offensive Language	1
Titanic	22/07/2007	BBC2	Sex/Nudity	1
Today	26/07/2007	BBC Radio 4	Religious Issues	1

Top Gear Polar Special	25/07/2007	BBC2	Generally Accepted Standards	3
Top Gear Polar Special	25/07/2007	BBC2	Dangerous Behaviour	3
Trisha Goddard	16/08/2007	Five	Offensive Language	1
True Dare Kiss	19/07/2007	BBC1	Generally Accepted Standards	2
True Dare Kiss	19/07/2007	BBC1	Offensive Language	1
True Stories: Punk - Attitude (trail)	17/06/2007	More 4	Offensive Language	4
Ultimate Wedding Makeover	26/07/2007	Five	Sex/Nudity	1
Wake Up With Wogan	07/08/2007	BBC Radio 2	Generally Accepted Standards	1
Who Wants to be a Millionaire	-	ITV1	Competitions	1
Will Smith Presents The Tao of Bergerac	22/08/2007	BBC Radio 4	Sex/Nudity	1
Wimbledon	06/07/2007	ITV1	Offensive Language	3
Wire in the Blood	18/07/2007	ITV1	Religious Issues	1
XFM	05/08/2007	XFM	Use of Premium Rate Numbers	1
Yanks	12/08/2007	Five	Sex/Nudity	1