

# **Ofcom broadcast bulletin**

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## Introduction

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

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

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

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

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

## Standards cases

### In Breach

#### Live 8 Coverage

BBC1, 2 July 2005, 16:15

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#### Introduction

We received 55 complaints about swearing (“fuck”, “motherfucker”, “bitch”, “shit”) and offensive language (such as “nigga” and “blood claat” – an offensive slang term for a woman) used by some musicians during their appearances and performances. Complainants specifically mentioned Madonna, Razorlight, Green Day and Snoop Dogg. A number of these viewers were watching with their children and were surprised that the BBC had not used a delay system to prevent such language being broadcast in the early evening.

The Code in force at the time was the former Broadcasting Standards Commission’s (BSC) Code on Standards. We asked the BBC to respond to these complaints bearing in mind the provisions of the Code. We also asked:

- whether the broadcaster was aware in advance of the tracks that the musicians intended to perform;
- why an apology had not been given following Snoop Dogg’s performance.

The BBC submitted two statements, in addition to copies of *The Live8 Story*, a programme broadcast just before Christmas about the build-up to the concert and events on the day.

#### Response

The BBC regretted the offence caused to viewers by the use of strong language in the afternoon and early evening of the concert, “particularly the stream of expletives and racist terms used by the act Snoop Dogg.” Prior to the concert, BBC senior management had considered the possibility of such material being broadcast. The production team had been able to speak to some of the performers who might be a risk, to remind them of the worldwide TV audience and the need for their performances to reflect that. However, the broadcaster had been forbidden direct access to some other performers. Aware that Snoop Dogg might pose problems, the BBC had informally approached his record company, which had confirmed that he would be playing the “TV versions” (i.e. excluding the swearing) of his songs. Following the concert, the record company had apologised to the BBC and explained that it was a case of the performer “going into gig mode and forgetting the time of day.”

The broadcaster said that the question of whether to use a time delay had been considered at a senior level but was rejected as “wholly inappropriate and impractical”. It said that Live8 was planned, billed and taken part in by performers on the basis that the television coverage of the event would be shown live to audiences around the world. The use of any degree of delay would have violated these expectations, seriously called into question the credibility of the BBC with its licence payers and possibly jeopardised its involvement with this important event. Live transmission was an obligation under the contract between the BBC and Live8.

Additionally, the BBC said that to use an editing process which was “guaranteed to be effective” would have involved delaying the transmission by at least two hours. Finally, as other UK media were covering the event in full or in part, a delay could have baffled people who were following the concert by using more than one source of coverage.

The broadcaster said that normal procedures had been put in place to deal with unexpected strong language, including plans for an on-screen apology at the first available opportunity if necessary. The BBC said that, as *The Live8 Story* documented, tensions had existed even before the concert. On the day itself however, one repeated theme was the problem of the concert potentially over-running, due to the number of bands performing, and, if it did, how people would get home on public transport. During Snoop Dogg’s performance, as shown in *The Live8 Story*, an emergency meeting was held to discuss the problem. This placed great pressure on the concert’s organisers which had repercussions for the BBC’s production team. The timing of the meeting was not of the BBC’s choosing – indeed no-one from the BBC was present at the meeting.

Perhaps as a result, there was a confrontation between the organisers and senior editorial figures from the BBC which meant that the two key BBC editorial personnel missed much of the performance by Snoop Dogg and were unable to set the apology procedure in motion. At the same time, other BBC personnel were involved in dealing with other serious operational problems (such as the virtual collapse of the cellphone system which made any communication extremely difficult) and the difficulties which the overrunning of the event would have caused with relation to link-ups with other broadcasters. Therefore no apology was made as the key BBC personnel were unaware of the problem until approximately twenty minutes later, as they were fully occupied dealing with other issues. Had they been, Jonathan Ross would have been instructed to make a full apology on behalf of the BBC. By the time the extent of the problem during Snoop Dogg’s performance became apparent to the senior BBC editorial team, it was felt that the moment for a full apology had passed and that to have returned to the issue would have merely drawn further attention to the original offence.

The BBC said that it intended to ensure safeguards were “even more robust” for any future event of this scale and importance. Usually a host broadcaster would have some say in the choice of acts, their running order and the material to be performed – it was not so in this case. However, to guard against recurrence, the broadcaster said that if similar constraints applied again, it would consider the possibility of using a time delay for bands performing pre-watershed which might use offensive language in their acts. It would also consider using the studio to pull away from a performance, should expletives occur unexpectedly.

Additionally it would take further precautions to protect its production staff from unwarranted interference by third parties to ensure that they were able at all times to monitor and react to events on air as they unfolded. To ensure the immediate reporting of serious on-air issues, and a rapid response to them, it would arrange to have “an additional, dedicated editorial figure within the control vehicle, monitoring the output at all times ... with easy access to both the senior production team and the presenter.” It would also consider insisting on a post-watershed slot for acts which may cause problems, like Snoop Dogg.

## **Decision**

This one-off, live concert was a significant global event. By its very nature, the coverage was bound to attract a considerable child audience. We welcome the BBC's apologies and assurances, and recognise that it experienced a variety of unexpected difficulties during the concert. The BBC programme, *The Live8 Story*, which followed the event chronologically, documented that Snoop Dogg's performance occurred at the same time as a crisis meeting which had required the participation of Tessa Jowell, Secretary of State for Culture, Media and Sport. It is therefore apparent that the BBC had to cope with a number of tensions that day.

The swearing and offensive language referred to by the complainants started at just before 18:00 when coverage from Berlin of "Green Day" performing "American Idiot" included the word "fuck". This was followed at approximately 18:30 by Snoop Dogg's performance, which included swearing and racially offensive terms almost from the start ("motherfucker", "fuck", "nigga", "shit", "bitch" and "blood clats"). This set lasted for nearly 15 minutes. Following that, expletives ("fucking") were used by two performers at 18:56 and 19:18. The subtitles for these performers' speech (at 18:56 and 19:18) also included the words "fucking". The BBC state that it was not possible for it to apologise for Snoop Dogg's performance as it was not aware of the content until twenty minutes later. Yet, as noted above, there were other incidents that occurred over a period of nearly one hour and twenty minutes and for which apologies were not given. The latter incidents occurred during a time when, according to the BBC, it had regained control of its compliance arrangements.

We recognise that the BBC encountered difficulties as a consequence of its various contractual arrangements. However, the BBC remained responsible for ensuring that its output did not contravene the Code.

The BBC is a broadcaster with vast experience of covering live events. However, we noted that:

- a short delay was not implemented – despite the reputation of some of the performers. Broadcasters typically use delays of between 7 seconds and 5 minutes when broadcasting live material with the potential to cause offence, yet the BBC did not do this;
- when unforeseen problems occurred, the BBC did not ensure that a senior editorial figure retained responsibility for monitoring the output from this very high profile event. Given that the broadcaster knew it had been unable to liaise satisfactorily with all the performers prior to the concert, the need for this should have been foreseen;
- there was no senior editorial figure responsible for monitoring output at the time of Snoop Dogg's performance who could have authorised a broadcast apology or a cutaway to the studio;
- although various offensive words were broadcast over a period of more than an hour, it was not felt appropriate to give a more general apology later in the coverage, even taking into account the BBC's position that this could not have been given just after Snoop Dogg's performance.

The Code notes that "the television watershed...is well established as a scheduling marker to distinguish clearly between programmes intended to be suitable for family viewing and those intended primarily for adults." In relation to swearing and offensive language, it states that "the repeated use of expletives can cause significantly greater offence than isolated incidents which are justified by the context." The Code continues: "Broadcasters must be alert to, and guard against, the use of such language in live programmes." We consider the BBC should have anticipated an audience for this event which would include a significant number of children; and we therefore consider that the broadcast of this material was inappropriate, compounded

by the lack of any apology.

For these reasons, we consider that the BBC failed to take sufficient steps to guard against the use of swearing in this live coverage, as required by the Code.

**These aspects of the Live8 coverage were in contravention of the Code**

## **Killer Shark Live**

*Five, 2 & 5 October 2005, 20:00*

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### **Introduction**

*Killer Shark Live* was a week-long, live event about the life of sharks broadcast from the Scripps Institution of Oceanography in San Diego. Four viewers complained about the programme broadcast on 2 October 2005. Three of these suggested that a scene of a man who had been attacked by a shark was too gruesome for broadcast at that time. One viewer complained about the inclusion of clips from the film *Jaws*. One viewer complained about a picture of a mutilated body included in the edition broadcast on 5 October 2005, saying that it appeared without warning. Many of the viewers who complained were watching with their children.

### **Response**

#### **2 October 2005**

Five said that the title of the programme suggested that it would contain startling and brutal images of shark attacks. The continuity announcer informed viewers that the programme on 2 October 2005 contained footage of shark attacks and accounts from survivors, indicating that shark attacks on human beings would be included. The pre-titles tease referred to the inclusion of stories of a woman's "leg being torn off in a deadly tug of war with a Great White", "seal pups in a desperate struggle to survive and escape the killer's jaws", "the savage shark that could bite through steel", and "a shark feeding frenzy – live". All of this was carefully written to ensure viewers would be prepared for the programme ahead.

Five minutes into the programme, the presenter, Donal MacIntyre, said that the programme would also feature "true horrors from the deep – near death attacks", and "amazing footage of how sharks bite and kill and how you can fight back". The broadcaster said that it was satisfied that the content of the programme was suitable for a pre-watershed audience but wanted to make sure that viewers with younger children or those easily upset would be in no doubt as to what was to come.

With reference to the film *Jaws*, Five said that in a week-long series about sharks it would have been inexplicable for there not to have been reference to this seminal film. The first excerpt from the film was shown eight minutes into a ten minute sequence about shark legends and myths. The shot was chosen with a view to illustrating the nature of the film without using unnecessarily violent or gratuitous clips.

Further clips were shown from the film later in the programme in the context of explanations of how sharks attack humans. Again, these were brief and used to illustrate the descriptions of shark attacks being given.

#### *Henri Bource attack reconstruction*

During the 2 October 2005 programme's closing titles, at 2056, footage was shown of a reconstruction of a shark attack on Henri Bource in November 1964 in which he lost part of his leg. The footage was shown as part of a menu of what was coming in the following night's episode of the programme.

Viewers of that episode (3 October 2005) would have seen that the footage shown that night was actually labelled as reconstruction. Unfortunately, the footage was not labelled as reconstruction during the 2 October 2005 episode.

The sequence shown on 3 October 2005 was a mixture of original and reconstructed footage (the reconstruction was itself filmed by Mr. Bource) and this was made clear in the 3 October 2005 programme.

Four viewers contacted Five to express concerns similar to those received by Ofcom after the 2 October 2005 episode. Having reviewed the footage, Five decided to lessen the strength of the colour from the Henri Bource sequence to be shown during the 3 October 2005 episode. The broadcaster felt that this, coupled with a more detailed explanation that the footage was actually reconstruction, would reduce the potential for the images to cause offence or distress.

In addition, all video tapes scheduled for inclusion in the remainder of the series were re-viewed on-site in San Diego to ensure they were suitable for pre-watershed transmission following receipt of these complaints.

### **5 October**

The sequence complained of occurred at 20:14 and was used to illustrate the most likely consequences of being attacked by a shark. The single image, of a skeleton and severed arm, was on screen for 3 seconds and was not bloody or violent. This episode of the programme had already featured images of a shark's fin, teeth, and jaws being cut away by illegal poachers.

*Killer Shark Live* was, as its title suggested, a series designed to excite and educate viewers about sharks. These creatures have fearsome reputations and the programme sought to reflect that, whilst expounding some of the myths and legends that surround them. The images shown across the week were carefully chosen for the tone of the programme and its likely audience.

### **Decision**

Rule 1.3 of the Broadcasting Code requires that "Children must be protected by appropriate scheduling from material that is unsuitable for them."

Although the programme was shown pre-watershed, the series' title, the likely expectation of the audience for the type of factual programme broadcast by Five in the 20:00 slot and the information preceding it would have all have combined to alert viewers to the possibility that they would see images of shark attacks in the programmes.

### **2 October 2005**

The clips shown from the film *Jaws*, while tense, did not show any graphic images that were unsuitable for inclusion in this programme. The trail for the next edition, shown at the end of the 2 October 2005 edition, showed a particularly detailed reconstruction (although this was not labelled as such) of a diver shortly after a shark had bitten off part of his leg. The realistic treatment and lack of contextualisation was problematic for this pre-watershed programme. However we welcome Five's prompt action which we consider resolves the matter.

These complaints were resolved.

### **5 October 2005**

We accept that viewers who had been following this series may have been prepared for some scenes illustrating the potential ferocity of shark attacks. However, this particular episode contained no specific information prior to the broadcast of the programme.

An item within the programme was introduced by the presenter asking “If you were attacked by a killer shark, what would you do? Would you fight it with your bare hands? This man did.” There then followed indistinct images of sharks, red water and bubbles. The voiceover continued: “Once you’re attacked by a great white shark, your chances of surviving are slim. You’re more likely to end up like this (image shown) than get away. But there are amazing survival stories”. In order to illustrate the effects of a shark attack on a victim, the item showed an image of a partly eaten/decomposed, headless human corpse with its spine exposed and still wearing its boots. A muscular, uneaten arm, separated from the rest of the body at the shoulder joint, could be seen to still be wearing a watch. Tissue was still attached to the skeletal frame and the image was clearly identifiable as human. No other reference was made to the image. There was nothing up to the point of the image being broadcast that would have prepared the audience for such a shocking picture.

Although fleeting, this was an extremely strong, and some might say grotesque, image. We recognise that its use could be justified in some contexts. However its inclusion in this pre-watershed programme, devoid of meaningful context, was unacceptable when children were likely to have been watching. It was an image, in our view, that is unlikely to be suitable pre-watershed and we were concerned that Five considered it appropriate.

For this reason, we consider that the image in the programme of 5 October 2005 was in breach of the Code.

### **Resolved/Breach of Rule 1.3**

## **The Ends**

*Information TV, 15 November 2005, 19:00*

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### **Introduction**

Information TV broadcasts factual and informational programmes targeted at niche audiences. *The Ends* was a nine-minute film made by young people from a youth inclusion project to highlight the issue of gun and violent crime on a South London estate. In the film, a 15 year old girl is shot and killed.

A viewer was concerned about scenes of violence (including the shooting and a physical attack) and the repeated use of offensive language, including “fuck”.

### **Response**

Information TV explained that this programme was originally made by Crime Concern to show to schoolchildren and to point out the horrors of gun crime. The broadcaster therefore presumed that it was deemed suitable to show to children – although in appropriate circumstances and context. The programmes on the channel do not generally appeal to children, but adults who watched this drama may have felt that it was useful for their own children to see. Children, however, were unlikely to be viewers of the programme unless they were specifically introduced to it.

The broadcaster believed that the film was appropriately scheduled as the programme scheduled before it would be unlikely to attract a child audience. Documentaries on the making of the film shown straight afterwards helped set the appropriate context. An announcement at the start of the film informed viewers that it contained coarse language and scenes of violence. The broadcaster felt that the violence in the film was not presented as entertainment and, given the real problems surrounding gun crime, was justified in this context. Although the high level of swearing in the film did cause the broadcaster some concern, it believed it was undoubtedly typical of the situation depicted.

Whilst the broadcaster regretted any upset caused to unsupervised children who may have viewed the programme, it believed that the film was appropriately scheduled given the adult appeal of the channel.

### **Decision**

We acknowledge that the film was a serious attempt to highlight the issue of gun crime. However, even if this channel’s output would not generally appeal to children, they are available to view in significant numbers at this time of the evening.

The Broadcasting Code states that “children must ...be protected by appropriate scheduling from material that is unsuitable for them”. “Violence, its after-effects and descriptions of violence....must be appropriately limited in programmes broadcast before the watershed” and “the most offensive language must not be broadcast before the watershed”.

This film contained some very strong material with graphic scenes of one girl being shot, haemorrhaging and dying, another committing suicide by firing a gun placed in her mouth, two teenage boys being seriously physically attacked in addition to repeated swearing. Despite the well intentioned motivation of the film makers, the

21:00 watershed applies to all television channels. Given the above, the film was not suitable for broadcast at this time.

**Breach of Rule 1.3**

## **Backlash - Sex and the Nanny State**

*BBC2, 5 November 2005, 18:45*

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### **Introduction**

This was the third in a series of 'authored documentaries' in which people addressed issues of 'political correctness'. In this programme, Mariella Frostrup marked the thirtieth anniversary of the Sex Discrimination Act. The programme explored what she believed was the anomaly of the prevalence of sexuality in peoples' daily lives but its suppression in the workplace.

During the course of this programme, Mariella Frostrup's narration was illustrated by scenes from a country club where a group of female teachers, out of the workplace, were letting their hair down and being entertained by male strippers.

One viewer complained that some of the material was unsuitable for broadcast before the watershed.

### **Response**

The BBC said that the early Saturday evening slot on BBC 2 has been established as the home of programmes intended for an adult audience; this programme would therefore not have gone beyond the general expectations of its likely audience. It believed that the programme's title and its subject matter would have alerted any adult to the possible content of the scenes in question. There was no evidence of children watching or that adults were concerned they might be.

### **Decision**

While protecting those aged under 18 is an important element when considering programmes that are broadcast before the watershed, some adults also rely on the watershed as a guide to what they might encounter and arrange their viewing choices accordingly. There is no question that the early scenes in the club created the context to illustrate Mariella Frostrup's point. These earlier images were consistent with what broadcasters transmit pre-watershed. Initially, viewers saw women enjoying what was, to all intents and purposes, a good humoured 'Full Monty' style performance. However, in our view, the imagery became far more sexual with prolonged shots of simulated sex between the strippers and members of the audience, visual references to masturbation and oral sex.

The cumulative effect of these sexual images went beyond what is generally acceptable for a pre-watershed audience.

### **Breach of Rule 1.4**

## Resolved

### **Kix 96.2 FM**

*21 December 2005, 08:00*

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#### **Introduction**

The presenter of the station's breakfast show made a number of references, apparently intended to be humorous, between 08:00 and 09:00 to the civil ceremony taking place that day between Elton John and David Furnish. They included references to being "taken up the aisle" and playing on the word "fairies".

A listener complained that these remarks were offensive and inappropriate in a breakfast show.

#### **Response**

The station said that the presenter was embarrassed that his remarks may have caused offence, albeit that he was in the main repeating comments made elsewhere in the media.

The station apologised for any offence caused, and said it had now reviewed its criteria in respect of broadcast content, particularly in the breakfast show, putting in place procedures to ensure such content would not be broadcast again.

#### **Decision**

Whilst we noted that the remarks were intended to be light-hearted, we were concerned by the frequency with which they occurred within the show. However, we welcome the station's assurances and apology, and consider the matter on this occasion resolved.

#### **Complaint resolved**

## **Xfm Scotland**

*15 January 2006, 16:45*

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### **Introduction**

We received a complaint from a listener who had heard the song “It was a good day” by Ice Cube on Xfm Scotland’s afternoon *MP3 Downloads Show*, while she was in a car with her child. The song used the word “fuck” several times and included sexually explicit language. The listener noted that the presenter did not apologise afterwards.

### **Response**

GCap said that this was a genuine mistake and apologised for any offence caused.

It explained that the Ice Cube track had been mistakenly loaded into the system and mis-labelled as a 'clean edit'. Unfortunately, the presenter was unaware that the wrong version was being broadcast as he was working on a separate feature at the time; that was why an on-air apology was not made.

The track had now been deleted from the system and all presenters had been reminded to double-check the procedure for loading tracks.

### **Decision**

The track was clearly unsuitable for broadcast at a time when children were likely to be listening. However, in view of the apology and action taken to prevent a recurrence, we consider the matter resolved.

### **Complaint resolved**

## **The World's Wildest Police Videos**

*ZTV Sweden, 1 December 2005, 19:45*

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### **Introduction**

This series looks at dramatic real situations involving police services throughout the world. This particular programme featured actual footage of a young boy who was rescued by the police from being deliberately drowned by a man who was holding him hostage.

One viewer complained that this sequence was too distressing for transmission at 19:45 (Swedish time).

### **Response**

Viasat, who operate the ZTV Sweden service, said that every episode in the series starts with a content warning. The narrator also offered another warning before the particular item began. However, it apologised for any distress this scene may have caused viewers, and had now placed a post 21:00 restriction on this programme. It also said that it would be reviewing its scheduling of this series in the light of the complaint.

### **Decision**

Although the item had a positive outcome and the young boy was rescued before he was seriously harmed, the scenes were disturbing and, in our view, should not have been shown before the watershed. However, Viasat's prompt action in reviewing its procedures and making sure this programme will no longer be broadcast before 21:00 means that we consider the matter resolved.

### **Complaint resolved**

## **Loose Ends**

*BBC Radio 4, 17 December 2005, 18:15*

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### **Introduction**

In this programme, a contributor, Jimmy Carr made a joke about Gypsies. One listener complained that the joke was offensive and should not have been broadcast.

### **Response**

The BBC apologised for the line and accepted that it was derogatory and offensive. The Executive Producer of *Loose Ends* has subsequently discussed this incident with the production team and with the presenter. The team was aware of the sensitivities involved, the guidelines within which they worked and the need to remain vigilant about such boundaries in future.

### **Decision**

In view of the apology given and the swift and substantive reaction by the BBC to this issue, we consider the matter resolved.

### **Complaint resolved**

## **Hits Quiz**

*The Hits, 13 & 20 November 2005, 11:00*

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### **Introduction**

Throughout this music video stream a premium rate text-entry competition was run on screen. Occasionally, between videos, presenters encouraged viewers to enter. Two viewers believed it was unclear that entrants with the correct answer did not automatically win the prize, but were actually entered into a draw for the prize.

### **Response**

The Hits said that it had tried to make the prize element clear by stating in presenter links that one correct player would win £100 at the end of the hour, displaying on-screen a message that terms and conditions were available on the programme's website and explaining how the quiz worked within the channel's Teletext pages, Freeview red button application and text responses to participants.

However, in light of the complaints, the broadcaster decided to take *Hits Quiz* off air while clarification of the programme's prize element was reviewed. It decided to revise the terminology used within the on-screen graphic, amend the wording both on the Interactive Voice Response telephone line and in its text message responses. It would also ensure that the presenters took more time to explain the prize element.

The broadcaster also offered a refund to each complainant of the amount spent on entering the competitions.

### **Decision**

The broadcast on 20 November 2005 clearly stated at the outset that one correct player would win the prize; however the programme shown on 13 November 2005 contained material which was not as clear.

For this competition to be transparent, we believe that there must be regular clarification that a correct response offers only the chance of winning - any implication to the contrary should be avoided. We welcome the broadcaster's prompt action and appropriate response, which we believe resolves the matter.

### **Complaints resolved**

## **Add the Numbers! and Find the Word!**

*The Great Big British Quiz, 2 August 2005, 00:50*

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### **Introduction**

A viewer complained that a presenter of the Great Big British Quiz (of which the principal means of entry was a premium rate telephone service (PRS)) misled the audience. His complaints were:

1. In *Add the Numbers!* the complainant objected to the presenter saying: "If you have debts you need to clear, we can do that right here."
2. Also in *Add the Numbers!*, the complainant objected to the presenter's comments, "Solve this simple puzzle" and "It's not a trick question", as the viewer claimed that the challenge in question had "run for hours" and was "anything BUT simple."
3. Nobody won the prize in *Add the Numbers!*, which was then carried forward to the next game (*Find the Word!*). The presenter stated that someone must win the prize of £2,000 by the end of the programme. The complainant claimed that the subsequent challenge (*Find the Word!*) was "banal" and he was concerned that "viewers were, as they are every night, encouraged to call immediately ... this money will be given away any second now". However a call was not taken for thirty-five minutes, when the puzzle was solved instantly.

### **Response**

1. The Great Big British Quiz (TGBBQ) believed that the presenter's reference to clearing debts was unproblematic when taken in context.
2. The broadcaster said that, "Solve this simple puzzle" and, "It's not a trick question" were statements it had told presenters not to make, as *Add the Numbers!* was a complex challenge. It assured us that the presenter had subsequently undergone refresher training concerning statements that should be avoided, to ensure no recurrence.
3. TGBBQ said that it was always its intention to give the prize money of £2,000 away that night, which was why *Add the Numbers!* was taken off air when it became apparent that no one was coming close to solving it. However, it added: "It is not the channel's general policy to give money away by the end of the night no matter what" and it was now more common for the games themselves to be rolled over to another day. The broadcaster assured us that, while in this case there was a long interval before the next call was taken, there would have been sufficient time before the programme ended to take more calls to ensure a win, if the first caller had not solved the puzzle.

It added that the channel's callers and winners were genuine and that the channel had no idea whether callers going through to the studio would solve a puzzle or not. While there was no set frequency for taking calls, it assured us that it had no policy to encourage viewers to call and then conveniently (and suspiciously) find a successful caller just before the channel went off air.

### **Decision**

Rule 10.9 of our Broadcasting Code allows the use of PRS within programmes where it forms part of the editorial content of the programme.

1. In *Add the Numbers!* the presenter said: “£52,000 still available – Your minimum win, £2,000 – That’s the least you’ll win if you solve this puzzle. £50,000 pounds in the jackpot – A life changing amount of money – if you have debts you need to clear, we can do that for you right here.”

Television advertisements for lotteries, pools and bingo companies must not promote such activities as a way out of financial difficulties. While this rule does not apply to quizzes within programmes, the Broadcasting Code does require that audiences are protected from material that may be harmful.

We consider it unwise to promote premium rate entry quizzes offering cash prizes as an option for clearing debt. We acknowledge that, on this occasion, the presenter did not promise winnings of £52,000 or directly encourage viewers to participate in order to clear possible debts. However, while the presenter’s comments did not breach the Broadcasting Code, we advised the broadcaster to avoid any future approach that would suggest entry into its competitions was a feasible route for clearing debt.

2. Rule 2.11 of the Broadcasting Code requires that: “Competitions should be conducted fairly, prizes should be described accurately and rules should be clear and appropriately made known.”

The presenter’s comment concerning the difficulty of *Add the Numbers!* was actually: “Simple puzzle, or so it would appear”, which we believe indicated clearly that the challenge was not likely to have had an obvious solution. However, the presenter’s later comment that the question was not a trick appeared to contradict his first comment. We therefore welcome the action taken by the broadcaster, which we believe resolves this aspect of the complaint.

3. In *Find the Word!* the presenter told viewers that, at any time, someone would win £2,000, with an opportunity to win the £50,000 jackpot, before the programme ended and that it could happen at any time. While he was encouraging viewers to call the number on screen without delay, he appeared to reflect clearly the relevant entry mechanics, explaining that people had to be held on an extended line to have the chance of getting through to the studio. We welcomed the broadcaster’s assurances and randomly selected five consecutive nights’ broadcast output, which we found demonstrated that unsolved challenges tended to be carried forward for future continuation. We believe that this effectively resolved the matter.

**Resolved/Not in Breach**

## **Girls & Boys – Flashing Images**

*BBC Two, 13 November 2005, 21:00*

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### **Introduction**

We received one complaint that this programme contained instances of flashing images. Certain types of flashing images present a danger of triggering seizures in viewers who are susceptible to photosensitive epilepsy.

### **Response**

The BBC explained that a technical review for flashing images was carried out on almost all pre-recorded programmes prior to transmission. Where programmes contained flashing images, the material was checked by automated equipment for compliance with Ofcom's Guidance Note on Flashing Images<sup>1</sup>. *Girls and Boys* was assessed by this equipment as part of the review, and no potential problems were detected. However, when the material was subsequently re-checked following the complaint to Ofcom, a different machine confirmed that the programme did in fact contain non-compliant material. The BBC stated that the first machine had developed a fault which led to the original, incorrect, analysis.

The BBC has undertaken to re-check all programmes in this series for flashing images, and will re-edit any non-compliant material before the programmes are re-transmitted. It will also reassess its technical review procedures to minimise the chance of a recurrence, and was considering more widespread use of a more sophisticated type of flashing images detector.

Although no reports of seizures caused by this programme had been received by either the BBC or Ofcom, the BBC expressed regret this error occurred.

### **Decision**

A technical assessment by Ofcom staff concluded that several sequences in the programme did not comply with the Guidance Note on Flashing Images<sup>1</sup>.

In view of the potential seriousness of a seizure for any viewer who is susceptible to photosensitive epilepsy, we are pleased to note that the BBC has generally robust compliance procedures in place for dealing with flashing images. Although on this occasion the problem was due to an equipment fault, we note that the BBC is taking steps to minimise the chances of similar issues occurring in the future. We would however emphasise the need for broadcasters to exercise caution when relying on automated systems for checking flashing sequences.

### **Complaint resolved**

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<sup>1</sup> 'Ofcom Guidance Note on Flashing Images and Regular Patterns in Television', Annex 1, Broadcasting Guidance Notes: Section 2  
(<http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/guidance2.pdf>)

## Not in Breach

### **The Magic of Jesus**

*Channel 4, 29 December 2005, 22:15 and Trailers*

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#### **Introduction**

This programme followed two young magicians as they tried to create 'magic versions' of miracles recorded in the Christian New Testament, such as turning water into wine and feeding the five thousand.

51 viewers complained that the trailers/programme were offensive to the Christian faith. Some were concerned that the programme sought to trivialise or denigrate the miracles by suggesting that miracles were not miraculous and were, in fact, easily reproduced through simple magic tricks.

#### **Decision**

Rule 2.3 of the Broadcasting Code states "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context .....Such material may include....discriminatory treatment ...on the grounds of ...religion, beliefs".

The trailers clearly stated that the tricks the magicians were going to perform were 'inspired' by the miracles and there was no suggestion in the trailers that the miracles themselves were magic. We recognise that the use of 'cardboard cut-outs' of Jesus and other subjects found in scripture, such as the Holy Spirit as a dove, had the potential to offend some viewers. However, given the context in which these trailers appeared – on Channel 4, in a trailer for an entertainment show about magic, and which referred to the miracles as the inspiration for the acts, we do not consider that the use of these elements amounted to discriminatory or offensive treatment.

The programme itself clearly contained magic tricks and, from the outset, it was plainly not intended to question whether such miracles were possible. The programme was broadcast on a channel known to take an alternative approach to aspects of programming, and the audience would have been aware of this. There were scripture passages at the commencement of each trick. These referred the viewer to the miracle that was about to inspire the illusion that followed. They were read by respected Christians and were treated seriously and reverently. The resulting illusions were very clearly tricks. Although similar in outcome to the miracles recorded in the New Testament, they could not be said to have been in any way presented as being equal to them. It was clear throughout that this was simply a new way of presenting certain magic techniques, rather than any attempt to undermine the beliefs of people of the Christian faith.

#### **Not in breach**

## **Emmerdale**

*ITV1, 2 January 2006, 19:00*

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### **Introduction**

126 viewers complained about scenes of two men kissing, which many felt were too explicit to be shown pre-watershed and when children were available to view.

### **Decision**

The Broadcasting Code requires that “any discussion on, or portrayal of, sexual behaviour must be editorially justified if included before the watershed.....and must be appropriately limited and inexplicit.” The Code does not make a distinction between the portrayal of homosexual or heterosexual behaviour.

Some viewers, including parents, are not comfortable with any representation of homosexual behaviour whilst young children may be watching. However, we have to consider whether these relationships are portrayed in an appropriate manner, as with any sexual behaviour before the watershed. *Emmerdale* has featured a homosexual character for a number of years and has featured various aspects of her relationships. The tentative relationship between these two characters (Paul - who is openly gay and Ivan – who is not) is affected by Ivan’s concern about the reaction of other villagers - he states that he had been beaten in the past when he was discovered in bed with another man. When he finally decides to have a relationship with Paul, the two are seen to kiss. Later in the episode, they are interrupted by Paul’s curious sister as they are kissing on a sofa.

Ivan and Paul’s behaviour was no more explicit than that previously exhibited by other characters in this soap. Given the inexplicit portrayal of this relationship, we consider that these scenes were acceptable.

### **Not in breach**

## **Coronation Street**

*ITV 1, 16 January 2006, 20:30*

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### **Introduction**

In this episode, single mum Sunita is struggling to keep her head above water with her new-born twins. Her brother Jayesh suggests the possibility of her going back to live with their parents. In the course of the conversation, he suggests that such a move would be preferable to living like "...poor white trash".

502 viewers complained that the expression was unacceptable and racist.

### **Decision**

In drama it is often the case that characters will say challenging things in order to propel storylines and, indeed, raise issues - sometimes of a controversial nature. Such characterisation, in terms of freedom of expression for writers, producers and actors, is an important right. It is important that modern day dramas are able to reflect the society they seek to portray. *Coronation Street* often handles controversial issues, including race, from different angles.

Against this has to be balanced the possibility of offence. Rule 2.3 of the Broadcasting Code requires broadcasters to justify the inclusion of potentially offensive material through the context in which it is broadcast.

Relevant contextual elements in this particular scene were that:

- the character of Jayesh has been established in previous episodes, when, it is clear, he is unhappy with the life and the life-partners Sunita has chosen. He is not necessarily a sympathetic character;
- Jayesh, although a man with traditional views, does not necessarily represent any one particular group or community;
- Sunita's response to her brother clearly showed that his comments were unacceptable. She retorted "... some of my best friends are what you would call poor white trash".
- Very soon afterwards, because Jayesh persisted in his attitude, Sunita threw him out telling him never to come back.

While the term "white trash" has obvious racist overtones, it can also be used in context to describe those from a low socio-economic group. It was clear throughout the dialogue and characterisation that the programme was not condoning the attitudes displayed by Jayesh. However, it is also clear that the programme, dwelling as it often does on contemporary social issues, has a right to reflect the fact that some people do hold such attitudes. By portraying them in dramatic form, in our view, the programme took a legitimate approach to exploring such matters.

### **Not in breach**

## **Frank Skinner Show**

*ITV 1, 17 November 2005, 23:30*

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### **Introduction**

In this series, there was a regular segment in which Frank Skinner, in the style of Bob Dylan, sang a song on a topical issue. In this programme the song was about a Scot who, doctors are hoping, has without medical help, thrown off the HIV virus. During the course of this song, there were references to the person's sexuality.

Eight viewers complained that the song was offensive to the gay community and/or implied that the HIV virus was a specifically gay problem.

### **Response**

Channel Television said that the song was intended to celebrate the news of this development. Frank Skinner thought this was a wonderful and inspirational story and the aim of the song was to celebrate this. The broadcaster said that the conceit behind the song played on the reputation of Scots as 'hard men' and incorporated several mild references to the person's sexuality. It stated that Frank Skinner was anxious that the song should not be misinterpreted as being in any way homophobic.

### **Decision**

It is important that comedians are allowed to fully exercise their right to freedom of expression. In particular comedy has a tradition of deliberately flouting boundaries of taste. Equally, that right has to be balanced with a responsibility not to use stereotypes in a way that offends against generally accepted standards. The news story on which the song was based certainly appeared to be a positive development and elements of the song celebrated that.

However at times, the song's humorous focus seemed to be centred more on the man's sexuality than on his medical achievement. The choice of words at some points in the lyrics was stereotypical (e.g. references to "fate had re-opened that old back door", "just keeps mincing away" and "with a slight lisp") and we recognise that they could have been seen as offensive by some parts of the gay community. The execution was not as unequivocally celebratory as the broadcaster may have hoped. Although we consider that the material was not in breach, the cumulative effect of the references placed it on the borderline of what is acceptable in terms of generating offence in this context.

### **Not in breach**

## **BBC News 24, 11 March 2005, 09:45**

On 12 December 2005, the Content Board decided not to uphold the appeal of a complainant against the Executive's decision that the transmission of offensive language during a press conference, broadcast live, by BBC News 24 at 09:45 on Friday 11 March 2005 was not in contravention of the ex-Broadcasting Standards Commission's Code on Standards.

As a consequence of this decision, the following guidance has been issued by Ofcom in relation to offensive language and rolling news channels. It will appear in Ofcom's web-based Guidance which accompanies the Broadcasting Code.

### **Guidance to Rules 1.14 - 1.16 Offensive language**

**Rolling live news channels** face different challenges, in terms of compliance, to other broadcasters. These channels provide services which, as a matter of public interest, should be able to report accurately the news as it happens.

Because of the immediacy of news and the necessity to go to events live, at times, the broadcaster has less control of its editorial output. This is understood by the audience to these services which is both overwhelmingly adult and 'self-selecting'. There is therefore always a possibility that material transmitted on these channels may be unsuitable for children (see also the guidance to Rule 1.7 Information, the watershed and news).

While news channels should always aim to minimise the use of offensive language pre-watershed, there are exceptional occasions when, because of their nature, such language is broadcast. Under such circumstances, Ofcom will consider:

- The editorial justification for the coverage
- Whether it was live or pre-recorded
- Whether it was at a time when any children are likely to be in the audience
- The context in which the language was used
- Whether there was an apology made - this may help mitigate offence /distress

## Fairness and Privacy Cases

### Upheld in Part

#### **Dr Xming Liu, Mr Roy Reitz on their own behalf and on behalf of the Hendon Traditional Chinese Medicine Centre**

*Bam Bam Breakfast Show, Kiss 100 FM, 29 July 2005*

**Summary:** Ofcom has upheld in part this complaint of unfair treatment and unwarranted infringement of privacy.

This edition of the Kiss 100 Bam Bam Breakfast Show, featured a series of 'wind-ups' by presenter 'Streetboy'. Streetboy contacted the Hendon Traditional Chinese Medicine Centre (HTCMC or "the Clinic") five times. His conversations with directors of the Clinic, Dr Xming Liu and Mr Roy Reitz, were secretly recorded and broadcast without the knowledge or consent of the parties. Dr Liu and Mr Reitz complained they and the Clinic were treated unfairly and that their privacy was unwarrantably infringed in the making of the programme and in the programme as broadcast.

Ofcom found the following:

#### HTCMC

- The broadcast was unlikely to have materially affected listeners' understanding of the Clinic in a way that undermined its reputation.
- The editing of the programme did not result in unfairness to the Clinic.
- Disruption to the Clinic caused by programme makers did not result in unfairness to the Clinic in the programme.

Ofcom did not uphold the complaint of unfair treatment in relation to the Clinic.

#### Dr Liu and Mr Reitz

- The use of deception in obtaining material; the broadcast of the material without consent; and, the manner of the programme maker's dealings (which had the potential to cause significant annoyance) resulted in unfairness to Dr Liu and Mr Reitz and unwarrantably infringed their privacy in both the making of the programme and the broadcast itself.

Ofcom upheld Dr Liu and Mr Reitz's complaints of unfair treatment and unwarranted infringement of privacy, with the exception of the below complaint of unfairness made by Mr Reitz alone.

- The editing of the programme did not result in unfairness to Mr Reitz. Ofcom considered that the item fairly reflected the conversations between Mr Reitz and the programme maker.

## **Introduction**

This edition of the Kiss 100 *Bam Bam Breakfast Show*, featured a series of 'wind-ups' by presenter 'Streetboy'. Streetboy contacted the Hendon Traditional Chinese Medicine Centre (HTCMC or "the Clinic") pretending that he wished to find a cure for his friend's baby, who was suffering from a fictional condition, "Hugius Cockius". Streetboy contacted the same Clinic five times (twice in person and three times by telephone). His conversations with directors of the Clinic, Dr Xming Liu and Mr Roy Reitz, were secretly recorded (without the knowledge or consent of the parties) and subsequently broadcast, also without the knowledge or consent of the parties.

Dr Liu and Mr Reitz complained they and the Clinic were treated unfairly and that their privacy was unwarrantably infringed in the making of the programme and in the programme as broadcast.

## **The Complaint**

### **HTCMC**

#### *Fairness*

In summary, Dr Liu and Mr Reitz complained that the Clinic was treated unfairly in the programme in that:

- a) the broadcast attempted to undermine the reputation of the Clinic;
- b) Kiss 100 contacted the Clinic under false pretences and deliberately misled and deceived the Clinic about the nature of their enquiries;
- c) the item was edited in a way which was unfair and damaging to the Clinic; and
- d) Kiss 100's behaviour was deliberately antagonistic and threatening, which caused disruption to the running of the Clinic, including disruption to patients receiving treatment at the time.

### **Dr Liu & Mr Reitz**

#### *Fairness*

In summary, Dr Liu and Mr Reitz complained that they were treated unfairly in the broadcast of the programme in that:

- e) Kiss 100 spoke to them under false pretences and deliberately misled and deceived them about the nature of their enquiries;
- f) Kiss 100 recorded and broadcast conversations with them without their knowledge or consent; and,
- g) the item was edited so as to portray Mr Reitz in an unfair and damaging way.

#### *Privacy*

In summary, Dr Liu and Mr Reitz complained that their privacy was unwarrantably infringed both in the making and broadcast of the programme in that:

- h) Kiss 100 spoke to them under false pretences and deliberately misled and deceived them about the nature of their enquiries; and,
- i) Kiss 100 recorded and broadcast conversations with them without their knowledge or consent.

### **Kiss 100 FM's Case**

Kiss responded to the complaint as follows:

Generally, Kiss responded to the complaint by saying they were extremely sorry if they had caused distress to either of the complainants. Kiss explained that this had never been the intention of the 'wind-up'. In regards to Kiss's specific response to each head of the complaint, a summary has been provided below.

#### HTCMC

- a) In response to the complaint that the item attempted to undermine the reputation of the Clinic, Kiss maintained the Clinic had not been identified during the item. Kiss noted that the broadcast did not reveal the name of the Clinic nor its location.
- b) Kiss did not specifically address the complaint that the Clinic had been deceived and deliberately misled. However Kiss did note that as with any 'wind-up', the process always included the 'winding-up' of the victim.
- c) Kiss did not specifically address the complaint that the item had been edited in a way that was unfair and damaging to the Clinic.
- d) In response to the complaint that, Streetboy's antagonistic and threatening behaviour had caused disruption to the Clinic and to a patient receiving treatment at the time, Kiss said that while they were sorry distress may have been caused on this occasion, they did not believe Streetboy had conducted himself in an aggressive or threatening manner. Kiss contended that because of Streetboy's experience at staging wind-up calls and pranks, he could be relied upon to act responsibly. Kiss highlighted that Streetboy had left the Clinic when Dr Liu told him that she had a patient to deal with. Further Kiss said Dr Liu gave permission for Streetboy to phone the Clinic and it was Mr Reitz who made the suggestion that Streetboy visit the Clinic.

#### Mr Reitz and Dr Liu

##### *Fairness*

- e) Kiss did not specifically address the complaint that Mr Reitz and Dr Liu had been unfairly deceived and deliberately misled. However, as outlined above, Kiss did note that as with any 'wind-up', the process always included the 'winding-up' of the victim. Kiss believed the name of the 'affliction' would have indicated the humorous intention of the stunt. In particular, Kiss referred to the complainants' statement which indicated that Mr Reitz was aware Streetboy was playing a prank. When describing Mr Reitz and Streetboy's first conversation, the statement read: 'it was apparent this was a hoax'.

- f) In response to the complaint that Kiss recorded and broadcast conversations with the complainants without their knowledge or consent, Kiss said that the item did not reveal either Mr Reitz or Dr Liu's identities and listeners would have been unable to recognise them.
- g) Kiss did not believe the item had been edited in a way which was unfair or damaging to Mr Reitz. Kiss noted that the complainants admitted they had not heard the broadcast, and were told by a patient of its content. Kiss 100 hoped the complainants' concerns regarding the portrayal of Mr Reitz and the identification of the Clinic and themselves, would be allayed after reviewing the item. Kiss 100 said that the face-to-face conversation between Mr Reitz and Streetboy was aired in context and did not imply a lack of professionalism on Mr Reitz's behalf. Aside from the fact that listeners would not have been able to recognise the participants, they did not believe that Mr Reitz's reputation would have been damaged by the feature. Rather, listeners were far more likely to have sympathised with Mr Reitz's remarkable tolerance of Streetboy's antics and persistence.

#### *Privacy*

- h) Kiss did not specifically address the complaint that Mr Reitz and Dr Liu had been deceived and deliberately misled, which unwarrantably infringed their privacy. However as noted under Kiss' response to head (e) of the complaint, Kiss explained Streetboy had contacted the Clinic as part of a 'wind-up'; the humorous intention of which he believed would be obvious given the name of the 'affliction'.
- i) As previously outlined, Kiss did not believe the broadcast conversations infringed Dr Liu or Mr Reitz's privacy as the complainants did not have their identities revealed. Kiss said that listeners would have been unable to recognise the participants.

#### **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 and from unwarranted infringement of privacy in 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.

In this case Ofcom found as follows:

#### HTCMC

- a) It was clear to Ofcom from the recording that the programme as broadcast was intended to be light-hearted and humorous. It did not appear to be (nor was it likely to have been perceived by viewers as) a criticism of the Clinic or its practices. In these circumstances, and given the farcical nature of the programme content, it was unlikely to have materially affected listeners' understanding of the Clinic in a way that undermined its reputation. Ofcom

found no unfairness in this respect.

- b) Ofcom noted that Dr Liu and Mr Reitz claimed that the programme makers contacted the Clinic under false pretences and deliberately misled and deceived the Clinic about the nature of their enquiries. Ofcom dealt with this allegation when considering Dr Liu and Mr Reitz's personal complaints (see finding below) as it related to the programme makers' dealings with them personally. However, it is Ofcom's opinion that any alleged deception of Dr Liu and Mr Reitz did not materially adversely affect the reputation of the Clinic. Ofcom therefore found no unfairness in this respect.
- c) As stated above at finding (a), Ofcom considered that the programme as broadcast was unlikely to have materially affected listeners' understanding of the Clinic in a way that resulted in unfairness. In the circumstances, therefore, Ofcom did not consider that any editing that had taken place prior to broadcast would have resulted in unfairness to the Clinic. Ofcom found no unfairness in this respect.
- d) Ofcom noted that the programme makers' behaviour was perceived by Dr Liu and Mr Reitz to have been deliberately antagonistic and threatening. Ofcom dealt with this allegation when considering Dr Liu and Mr Reitz's personal complaints (see finding below) as it related to the programme makers' dealings with them personally.

In relation to the Clinic itself, it is Ofcom's opinion that any alleged antagonistic or threatening behaviour directed at Dr Liu and Mr Reitz did not materially adversely affect the reputation of the Clinic and therefore did not result in unfairness to the Clinic in the programme.

Whilst Ofcom is concerned that broadcasters should be mindful of the potential for causing distress or disruption to members of the public in such circumstances, in this particular case, Ofcom did not consider that the alleged disruption resulted in unfairness to the Clinic, as the programme was unlikely to have materially adversely affected listeners' understanding of the Clinic. Ofcom found no unfairness in this respect.

Ofcom did not uphold the complaint of unfair treatment in relation to the Clinic.

#### Dr Liu and Mr Reitz

e), f), h) & i)

Programme makers should not normally obtain or seek information through misrepresentation or deception, except where the disclosure is reasonably believed to serve a public interest. When deception is used for the purposes of entertainment, particularly if the deception involves the secret recording of telephone conversations for inclusion in an entertainment programme, care should be taken to prevent any potential unfairness and unwarranted infringement of privacy. People who are the subject of a recorded deception should normally be asked to give their consent before the material is broadcast.

This may not be necessary if the person is not identifiable. Further, surreptitious recording of 'wind-up' calls to obtain material for entertainment purposes may be warranted if it is intrinsic to the entertainment and does not amount to a significant infringement of privacy such as to cause significant annoyance, distress or

embarrassment.

In this case, Ofcom noted that the broadcaster accepted that the conversations (both by telephone and in person) were secretly recorded and subsequently broadcast without the knowledge or consent of either Dr Liu or Mr Reitz.

Ofcom noted that the broadcaster maintained that the broadcast did not infringe the complainant's privacy as it did not disclose any personal information which would make them identifiable. Ofcom disagreed. Ofcom considered that, although the item did not disclose the names and personal details of the complainants, their voices were clearly audible throughout the recorded conversations and they would have been likely to have been identifiable to a significant group of people: their clients/patients and business associates. Further, Ofcom noted that the broadcast was first brought to the attention of the complainants by a patient, indicating that the item did make them identifiable.

Ofcom also had concerns about the manner in which the programme maker obtained the material. In particular, the potentially antagonistic methods used by the programme maker in contacting the Clinic five times, when it was clear from the early stages of production that his phone calls and presence were causing, at the very least, great frustration to the participants.

Ofcom found that the use of deception in obtaining the material, the broadcast of the material without consent, and the manner of the programme maker's dealings (which had the potential to cause significant annoyance) were not justified as there was no public interest to be served. All these had resulted in unfairness to Dr Liu and Mr Reitz in the programme, and unwarrantably infringed their privacy in both the making and broadcast of the programme.

Mr Reitz further complained that the editing of the item portrayed him in an unfair way. Ofcom considered that the item fairly reflected the conversations between Mr Reitz and the programme maker, and concluded the editing did not result in unfairness to Mr Reitz in the programme.

**Ofcom upheld in part the complaints of unfair treatment and unwarranted infringement of privacy in relation to Dr Liu and Mr Reitz.**

## Not Upheld

### **Complaint by Mr Nick Cameron**

*Prison Undercover: The Real Story, BBC1, 9 March 2005*

**Summary:** Ofcom has not upheld this complaint of unfair treatment.

Mr Cameron complained that he was unfairly treated in the programme as broadcast. The item was an investigation into the prison HMP Kilmarnock, and included material covertly recorded at the prison by an undercover reporter. Mr Cameron, the Director of HMP Kilmarnock, complained that the programme-makers only informed him that he would appear in the programme when pressured to do so. He also complained that he was unfairly portrayed in the programme, and that the programme reported that he failed to take any action regarding concerns raised by the programme's undercover reporter in spite of evidence that he had.

Ofcom concluded that although the programme-makers did not inform Mr Cameron that he would appear in the programme in their first letter detailing it, he was given this information sufficiently in advance of the programme for him, or his representatives, to respond to the allegations made in it. Ofcom found that the programme did not portray him unfairly. Ofcom also found that the programme did not report that Mr Cameron failed to take any action regarding concerns raised, and did report an investigation into the allegations raised in the programme by Premier Custodial Group.

#### **Introduction**

This documentary used secretly filmed footage to investigate HMP Kilmarnock, a private prison operated by Premier Custodial Group ("Premier"). An undercover reporter gained a job as an officer at the prison and filmed his daily work and observations. The programme criticised practices at the prison including those which, the programme claimed, put vulnerable prisoners at risk and failed to deal with hard drug use.

Mr Nick Cameron, Director of HMP Kilmarnock, featured in the programme. The undercover reporter secretly filmed Mr Cameron during the reporter's 'exit interview' in which he raised concerns about practices at the prison including the alleged falsification of forms relating to suicide watches. Mr Cameron complained he was treated unfairly in the programme as broadcast.

#### **The Complaint**

##### **Mr Cameron's case**

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

- a) The programme-makers only revealed that he would appear in the programme when pressured.
- b) The programme-makers' portrayal of Mr Cameron was highly inaccurate and untruthful.

- c) The programme reported that Mr Cameron had failed to take any action regarding the concerns raised by the undercover reporter (over the alleged falsification of forms relating to suicide watches), in spite of evidence to the contrary being offered to the BBC.

Supporting material

Mr Cameron provided correspondence between the programme-makers and the prison authorities.

In relation to head (c) of his complaint Mr Cameron supplied supporting material regarding an internal prison investigation conducted following the reporter's exit interview. This material included an email exchange regarding the investigation and prison rosters. Mr Cameron also supplied a witness statement from a senior manager present at the exit interview, stating that the reporter had declined to name any individuals falsifying forms relating to suicide watches.

**The BBC's case**

In summary the BBC responded as follows:

- a) The programme exposed very serious failings in the system at HMP Kilmarnock. Evidence of failings came from a variety of sources including overt and covert personal testimony from current and former prison staff, reports from the Prisons Inspectorate and documentation originating from Mr Cameron himself. Mr Cameron and his regime were therefore the subject of close questioning and scrutiny.

It is not true that the programme-makers only revealed that Mr Cameron would appear in the programme when pressured to do so. The programme's series producer wrote to him on 23 February 2005 more than two weeks before transmission inviting his response to issues raised. After this initial letter all further communication with Mr Cameron was mediated by Premier as requested. A subsequent letter of 4 March 2005 confirmed that they were considering using the covert material of the exit interview with Mr Cameron. The BBC stated that the exit interview was the most direct way possible to put concerns to Mr Cameron.

Premier provided two responses including an email concluding that all procedures were being followed as directed, however the programme-makers had evidence that this was not the case. It was in the wider public interest to show how the prison's Director had responded to being informed that suicide watches were compromised.

As of 23 February 2005 the programme-makers had not decided to include the section featuring Mr Cameron but in light of information suggesting that he was well aware of problems compromising the prison as far back as 2002, the issue came into focus and they invited Mr Cameron, through his press office to respond, which he did. If Premier had made objections over the tight deadline for response, the programme-makers would have considered moving the transmission deadline back.

- b) The portrayal of Mr Cameron prior to the exit interview was restricted to statements of fact about Mr Cameron and quotations from his own written material. The exit interview was a fair encapsulation of that encounter.

- c) The commentary pointed out that Mr Cameron did not ask Steve Allen (the undercover reporter) where or when the forms were falsified or which officers were responsible. It is not the case, as Mr Cameron and the witness statement stated, that Steve Allen refused to give these details, in fact he was not asked. The programme made no comment on the brief email regarding investigation into Steve Allen's allegations since it did not address the issues raised. However the programme did reflect in full Premier's statement.

The programme did not, as Mr Cameron stated, report that he had failed to take any action regarding the concerns raised by the undercover reporter. The script reported Premier's investigation. The only direct comment about Mr Cameron stated that he did not ask Steve for details regarding his allegations and this is factually correct.

### **Mr Cameron's comments on the BBC's response**

In summary Mr Cameron commented that:

- a) The BBC claimed he was given an opportunity to put his points across via the covertly filmed exit interview, however he was unaware that he was responding at the exit interview to BBC's programme or to its letter of 23 February 2005.

At no point did the BBC indicate that the deadline for transmitting the programme could or would in any way be altered. The BBC ran trailers from a week prior to transmission and advertised it in viewing guides. It is untruthful to suggest that the BBC were willing to delay televising the programme.

The producer refused to meet or return phone calls and would only correspond through fax.

- b) No further comment was made.
- c) The commentary did not explain that he had undertaken an investigation immediately following the exit interview in spite of information on this being provided to the BBC.

### **BBC's second statement in response**

In summary the BBC responded that:

- a) Their first statement did not suggest that the exit interview represented a right of reply, it was shown as part of the reporter's experience as a departing officer and was an appropriate opportunity for Mr Cameron to respond to his concerns. Mr Cameron failed to ask any of the questions which could have informed a meaningful investigation.

The reference to the possibility of rescheduling was not untruthful. It was a possibility although an option of last resort. In the event Premier provided a full response pre-transmission and rescheduling was not necessary.

The producer's letter of 23 February 2005 gave a full account of the issues raised in the programme and invited a response from which the salient points

were included. Premier requested that all further correspondence be conducted through their communications manager and subsequent questions were answered quickly by the programme-makers in faxed letters. There was no requirement to meet with Premier.

- b) No further comment was made.
- c) The programme did not detail Mr Cameron's investigation which resulted in only a six line email. Premier's letter of 7 March 2005 did not mention any earlier investigation, stating that one was 'underway'.

## Decision

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

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

In the circumstances of this case Ofcom found the following:

- a) Ofcom first considered Mr Cameron's complaint that the programme-makers only revealed that he would appear in the programme when pressured, and that this resulted in unfairness to him in the programme as broadcast. Where a programme alleges wrongdoing or incompetence, or contains a damaging critique of an individual or organisation, those criticised should normally be given an appropriate and timely opportunity to respond to, or comment on, the arguments and evidence contained within that programme. Ofcom found that the programme did contain a damaging critique of Mr Cameron, both as Director of the prison under investigation by the programme and as the subject of a section in the programme which was critical of him.

Ofcom therefore examined the background correspondence between the programme-makers and Mr Cameron. Ofcom noted that the first letter from the BBC, dated 23 February 2005, informing Mr Cameron of the forthcoming programme and its covertly recorded evidence, was extremely detailed. It mentioned a number of officers by name and detailed allegations to be made in the programme. However, Ofcom noted with concern that at no point did this letter mention the covert recording featuring Mr Cameron at the undercover reporter's exit interview.

It was only after repeated questioning from Premier that the BBC confirmed that it had covertly recorded material featuring Mr Cameron. In a letter of 1 March 2005 the programme-makers stated that "managers culpable through seniority should be identified". In a letter of 3 March 2005 the BBC stated that "the only Premier employee we will be identifying that we have not already named is the Director Nick Cameron". Finally in a letter of 4 March 2005, the programme-makers stated that "We believe it is in the public interest to show how Mr Cameron handled the situation when one of his junior officers tried to report how suicide watches are being compromised at his prison".

Ofcom noted that the BBC's submission in response to Mr Cameron's complaint stated that "As of 23 February the programme-makers had not decided to include the section featuring Mr Cameron". However Ofcom also noted that Mr Cameron was only finally notified of the BBC's intention to include the covertly recorded material, and thereby given an opportunity to respond to this aspect of the programme, five days before its scheduled transmission.

Ofcom then considered whether the way in which Mr Cameron was informed about his featuring in the programme resulted in unfairness to him. Ofcom considered that it would have been preferable for the programme-makers to have informed Mr Cameron at an earlier stage that he would feature in the programme. However, Ofcom concluded that Mr Cameron, or Premier on his behalf, was given an appropriate, and sufficiently timely, opportunity to respond to the allegations made in the programme and indeed a response from Premier was broadcast in the programme. Ofcom therefore found that the way in which he was informed about this did not result in unfairness to Mr Cameron in the programme as broadcast.

- b) Ofcom next considered whether the portrayal of Mr Cameron resulted in unfairness to him in the programme as broadcast and examined the unedited material featuring Mr Cameron. Ofcom considered that both the editing and presentation of the material featuring Mr Cameron was fair. The material broadcast from the covertly recorded exit interview was a fair representation of the unedited material, and was of particular relevance to the programme's investigation into the conduct of suicide watches at HMP Kilmarnock. The programme's commentary in relation to Mr Cameron was also fair (as detailed below at head (c)). Ofcom therefore concluded that the portrayal of Mr Cameron did not result in unfairness to him in the programme as broadcast.
- c) Ofcom finally considered Mr Cameron's complaint that the programme reported that he had failed to take any action regarding the concerns raised by the undercover reporter, in spite of evidence provided by him.

Ofcom first considered the material from the covertly recorded exit interview included in the programme. Ofcom noted that in the section of the programme featuring Mr Cameron, the undercover reporter stated:

"To be honest with you there's one thing I wanted to mention which has been playing on my mind. The suicide watches – I mean I've been on shifts I've noticed that they are filled in in advance or retrospectively and people aren't going around and doing them".

Mr Cameron was shown to respond:

"As long as you have done your job that's well you've done your job, and if you get an issue when you see someone else not doing their job – speak to them first 'that's not right you should do it properly' and if they don't do anything you should talk to a supervisor or the head of residential".

Ofcom further noted that the commentary following this exchange stated:

"But the director does not ask Steve where or when the forms have been falsified, or which officers are responsible for not following the

correct procedure”.

Ofcom found that the programme did not report that Mr Cameron failed to take any action following the exit interview. The commentary regarding Mr Cameron was confined to observations about the covertly recorded material included in the programme.

Ofcom also noted that in its letter to the programme-makers of 4 March 2005, regarding the concerns raised in the covertly recorded exit interview, Premier wrote:

“These concerns were taken seriously and fully investigated. We were unable to find evidence of non-compliance with our procedures and continue to monitor the situation,”

Premier also attached material in support of the action taken.

While the programme made no specific mention of this action, Ofcom is satisfied that the position of Mr Cameron and Premier was fairly represented in the programme which, referring to Premier’s statement for broadcast, stated:

“This week the Premier Custodial Group is investigating the allegations raised in tonight’s programme”.

Ofcom therefore concluded that there was no unfairness to Mr Cameron in the reporting of action taken regarding the concerns raised by the undercover reporter.

**The complaint of unfair treatment was not upheld.**

## **Complaint by Mr David Lorimer**

*Prison Undercover: The Real Story, BBC1, 9 March 2005*

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

Mr David Lorimer complained that he was unfairly treated in the programme as broadcast and that his privacy was unwarrantably infringed both in the making and broadcast of the programme. The item was an investigation into the prison HMP Kilmarnock, and included material covertly recorded at the prison by an undercover reporter. Mr Lorimer, a prison officer at HMP Kilmarnock, complained that the programme was unfairly edited and, without evidence, portrayed him as violent and having failed to report drugs finds. He further complained that his privacy was unwarrantably infringed when the programme makers covertly filmed him at his engagement party and subsequently broadcast the footage.

Ofcom concluded that the material featuring Mr Lorimer was not unfairly edited and did not portray him unfairly. Ofcom further found that although the covert filming of Mr Lorimer at his engagement party was particularly sensitive in view of the private nature of the occasion, both the recording and subsequent broadcast of the material was warranted and his privacy was not therefore unwarrantably infringed.

### **Introduction**

This documentary used secretly filmed footage to investigate the prison HMP Kilmarnock. An undercover reporter gained a job as an officer at the prison and filmed his daily work and observations. The programme criticised practices at the prison including those which, the programme claimed, put vulnerable prisoners at risk and failed to deal with hard drug use.

Mr David Lorimer, a prison officer at HMP Kilmarnock, featured in the programme. The undercover reporter secretly filmed Mr Lorimer teaching new recruits control and restraint techniques. Mr Lorimer was also secretly filmed talking to the undercover reporter at his own engagement party.

### **The Complaint**

#### **Mr Lorimer's case**

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

- a) The programme, without evidence, portrayed him as violent.
- b) The programme, without evidence, claimed that he did not report drugs finds.
- c) The section in the programme involving him was unfairly edited.

In summary, Mr Lorimer complained that his privacy was unwarrantably infringed in that:

- d) The programme's undercover reporter filmed, without Mr Lorimer's consent, at his engagement party which was a private function.
- e) The programme broadcast the footage covertly filmed at the engagement party.

## The BBC's case

In summary the BBC responded to Mr Lorimer's fairness complaint as follows:

- a) The programme, in line with a long tradition of undercover investigations, set out to expose failings at HMP Kilmarnock. In accordance with BBC Editorial Policy, prima facie evidence was gathered, before secret filming was embarked upon. This evidence included criticism from prison inspections which said that the prison felt uncomfortable and unsafe. The programme found and presented evidence that prison officers were deliberately ignoring drugs finds and exercising undue force well outside accepted control and restraint procedures.

In the context of the above evidence, and in his role as a trainer of new recruits, the programme secretly filmed Mr Lorimer. The researcher had established Mr Lorimer's attitude towards prisoners and his inappropriate advice to new recruits. His own words confirm that he was prepared to go beyond accepted control and restraint ("C&R") procedures, stating:

Quote 1: "I don't like them (long term prisoners). I fucking detest them. Be nice to them? Bit half and half. They seem to think they're beyond it you know. They need a good fucking pasting. That's it plain and simple – at the end of the day I've got the keys and I'm fucking in charge here so - it's my way or the highway"; and,

Quote 2: "You'll always get prisoners who push you to the limit – torturing you with this and that. But the minute you grab them and slam them on the deck and say 'shut the fuck up, do what I tell you' that's it. I've done it with prisoners, a good slap and say 'fucking behave yourself' that's all you need to do. Get them in a headlock and take them down. Never mind C&R (control and restraint). See when you're in the real world C&R does no good. If you don't like some cunt just headlock them and grab them and squeeze and you just do what you can".

- b) The evidence, presented again in Mr Lorimer's own words, showed him as someone who did not report drugs finds so that he could use this to his own advantage at a later date:

Quote 3: "I earn favours off the prisoners. If I find a bit of tin foil in the cell in a cell search. If it's fuck all - a wee bit of fucking mack [heroin] on it, I'll scrunch it up and say you owe me a favour now...I've got a dictionary of favours that I can cash in".

- c) The internal editing of the sections included in the programme did not alter their context or evidential value.

In summary, the broadcaster responded to the privacy complaint by Mr Lorimer that:

- d) The decision to film at Mr Lorimer's engagement party was taken in line with BBC Editorial Policy and following due consultation. The reporter had established Mr Lorimer was giving potentially dangerous advice to new recruits and wished to gain further evidence. The reporter felt that Mr Lorimer

might be even more forthright away from the prison environment. This proved to be the case. No other guests were identified, nor was the location specified.

- e) Before its inclusion the material was considered as part of the programme's editorial approval process. It was felt that as Mr Lorimer's comments were consistent with his attitude on previous occasions it was fair to include them in the programme. This was well within the programme's overall intention of serving the public interest, in showing up serious failings in this important area of the penal system.

### **Mr Lorimer's comments on the BBC's response**

In summary Mr Lorimer commented that:

- a) He has been a control and restraint (C&R) instructor at HMP Kilmarnock for two and a half years and a prison custody officer for three and a half years. During this time no complaints have been made against him regarding undue force in spite of numerous incidents when C&R has been used. Quote 1 (above) was no more than meaningless banter on a coffee break, he always treats prisoners with respect and dignity.

With regard to Quote 2 (above) he was at his engagement party and heavily under the influence of alcohol which the reporter used to his advantage. This was entrapment. His words were no more than bravado when he was heavily under the influence of alcohol, there is no evidence that undue force was used on inmates. (Mr Lorimer provided letters of commendation from his career file in support of his record).

- b) He would never overlook drugs finds and Quote 3 (above) actually says "if its fuck all but a wee bit of a *mark* on it". The BBC deliberately subtitled *mark* as 'heroin' to fool people into thinking he was saying the word *mack* instead of *mark*. It is not a reportable offence for prisoners to have foil in their cells.

### **BBC's second statement in response**

In summary the BBC responded that:

- a) The point at issue is neither Mr Lorimer's career nor whether prisoners have complained about his conduct in C&R. His own words presented evidence that he had gone, and was prepared to go, beyond accepted C&R methods and that he was prepared to pass on this advice to less experienced colleagues. In particular he stated "They need a good fucking pasting. That's it, plain and simple" and "I've done it with prisoners – a good slap and say 'fucking behave yourself', that's all you need to do". The fact that these remarks were made either during a "coffee break" or when he was "heavily under the influence of alcohol" has a bearing only in so far as his more relaxed state encouraged him to offer his views and experience more openly and frankly. This was not entrapment, Mr Lorimer had already seemed quite prepared to speak openly about these matters elsewhere.
- b) The BBC stands by its interpretation and transcript of Mr Lorimer's comments on drugs finds in Quote 3. Careful review by someone of visual impairment and a native Scot confirmed the subtitles as correct. If this refers to a harmlessly marked piece of tin foil it is difficult to understand why he went on

to say “you owe me a favour”. However this would make sense if the foil was marked with a substance that indicated that the prisoner had been smoking heroin or cannabis resin.

The BBC did interpolate the word “heroin” because “mack” would not be familiar to viewers who were unacquainted with the Scottish drug-related slang.

## Decision

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

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

In the circumstances of this case Ofcom found the following:

- a) In its consideration of Mr Lorimer’s complaint that the programme portrayed him, without evidence, as violent, Ofcom considered the full section of the programme featuring Mr Lorimer including both the covert material recorded of him and the programme’s commentary.

Ofcom found that Mr Lorimer’s portrayal in relation to the use of violence rested on his own words, including such expressions as “they (long term prisoners) need a good fucking pasting” and “I’ve done it with prisoners, a good slap and say ‘fucking behave yourself’ that’s all you need to do. Get them in a headlock and take them down. Never mind C&R (control and restraint)”.

Ofcom considered the programme’s commentary which stated “Lorimer is teaching the new recruits control and restraint techniques, or C&R. The prison says it doesn’t tolerate unlawful use of force on prisoners, but Lorimer has a different attitude to long term prisoners”. Ofcom found that the programme’s commentary was restricted in its observations, explaining Mr Lorimer’s position of trust in relation to new recruits and the teaching of control and restraint methods. Ofcom noted that the commentary further stated “Steve (the undercover reporter) never witnessed any officer-on-prisoner violence”.

Ofcom gave full consideration to the fact that this material was covertly recorded, both at the prison and at Mr Lorimer’s engagement party (see also below at heads d) and e)). Ofcom also noted the letters of commendation provided by Mr Lorimer from his career file. However Ofcom did not consider that Mr Lorimer’s words could be reasonably considered as mere banter during a coffee break, nor bravado fuelled by alcohol. The language used by Mr Lorimer was extremely strong and as such it was fair for the BBC to assume that this was not bravado and banter. Ofcom noted that in the material recorded at the party Mr Lorimer appeared fully coherent with no slurred speech or other indications of intoxication. Ofcom also noted that Mr Lorimer was teaching new and impressionable recruits and was therefore in a position of considerable trust.

Ofcom therefore concluded that there was no unfairness in the portrayal of Mr

Lorimer in relation to the use of violence.

- b) In considering Mr Lorimer's complaint that the programme claimed, without evidence, that he did not report drugs finds, Ofcom again considered both the covertly recorded material and the programme's commentary.

Ofcom considered Mr Lorimer's words as reported in the programme: "I earn favours off the prisoners. If I find a bit of tin foil in the cell in a cell search. If it's fuck all, a wee bit of fucking mack [heroin] on it, I'll scrunch it up and say you owe me a favour now. I've got a dictionary of favours that I can cash in".

Ofcom noted that Mr Lorimer disputed that he had said "mack" (heroin) and stated that he had in fact said "mark". However his subsequent words "you owe me a favour now" would not make sense in this context. For a prisoner to possess a piece of tin foil with a "mark" on it would not be an offence and would not result in owing Mr Lorimer a favour. Ofcom considered that the BBC's subtitling of "mack" as "heroin" was fair and supported by the context of the favours referred to by Mr Lorimer. Ofcom therefore found that again Mr Lorimer's portrayal in relation to reporting drugs finds rested on his own words.

Ofcom also considered the programme's commentary in relation to Mr Lorimer reporting drugs finds. The commentary stated "This is prison officer Dave Lorimer. On a training course he tells Steve and the other recruits that if he finds evidence of smuggled drugs he doesn't always report it". Ofcom found that the observations made in this commentary were supported by Mr Lorimer's own words, examined above.

Ofcom therefore concluded that there was no unfairness in the portrayal of Mr Lorimer in relation to drugs finds.

- c) In considering whether the sections involving Mr Lorimer were unfairly edited Ofcom examined the unedited recordings featuring Mr Lorimer. Ofcom found that the material had been edited, but having viewed the unedited material Ofcom considered that this editing did not misrepresent Mr Lorimer's statements. As discussed above at Decision head (a), Mr Lorimer did not deny saying the statements reported in the programme, instead he sought to attribute them to banter and bravado. The subtitling of the word "mack" has been dealt with above at Decision head (b). Ofcom therefore concluded that there was no unfairness to Mr Lorimer in the editing of the covertly recorded material featuring him.
- d) In considering whether the programme's covert filming at Mr Lorimer's engagement party unwarrantably infringed his privacy, Ofcom noted that privacy can be infringed during the obtaining of material for a programme. Ofcom further noted the obligations on broadcasters to justify both the decision to gather material covertly, and the actual recording of the material, on grounds that this would serve an overriding public interest.

Ofcom found that the BBC had given due consideration to the decision to gather the material covertly, and had established concerns regarding Mr Lorimer's advice to recruits, which merited further investigation. Ofcom was particularly sensitive to the fact that the programme makers decided to film Mr Lorimer during his engagement party. However, Ofcom concluded that this was justified by the material already gathered from the covertly filmed training session which, given the position of considerable trust and leadership held by

Mr Lorimer at the prison, warranted further investigation by the undercover reporter posing as a new and therefore impressionable recruit. Ofcom therefore found that the covert recording served an overriding public interest and concluded that it did not result in an unwarranted infringement of Mr Lorimer's privacy.

- e) Ofcom then considered whether the broadcast of the covertly filmed material from Mr Lorimer's engagement party unwarrantably infringed his privacy. Ofcom noted the obligations on programme makers to justify the broadcast of covertly recorded material on grounds that it served an overriding public interest.

Ofcom was again sensitive to the fact that the material had been recorded during a private occasion, namely Mr Lorimer's engagement party. However Ofcom considered that the material gathered on this occasion was significant in that Mr Lorimer expressed stronger views than those recorded at the training session. As discussed above at head a) Mr Lorimer was extremely coherent and did not appear to be influenced by drink. Neither the occasion nor any other guests were identified.

Ofcom therefore concluded that in view of the nature of the material gathered, and the position of trust held by Mr Lorimer at the prison both in relation to prisoners and prison officer recruits, the broadcast of this material was justified by an overriding public interest. Ofcom concluded that the broadcast of the covert recording at the party did not result in an unwarranted infringement of Mr Lorimer's privacy.

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

## **Complaint by Mr Robin Marsh on behalf of The Family Federation for World Peace and Unification – UK (formerly known as the Unification Church)**

*Reputations: Reverend Sun Myung Moon Emperor of the Universe, BBC Prime, 16 December 2004*

**Summary:** Ofcom has not upheld this complaint of unfair treatment.

Mr Marsh complained on behalf of The Family Federation for World Peace and Unification – UK, formerly known as the Unification Church, that it was unfairly treated in the programme as broadcast. The item was a documentary examining the life of the Reverend Moon and the work of the Unification Church he founded. Mr Marsh complained that the programme had been sensationalist and dishonest, containing factual errors which resulted in unfairness. He also complained that the programme makers had reneged on promises made, and had failed to provide an appropriate opportunity to respond to allegations made in the programme.

Ofcom concluded that there was no unfairness to the Unification Church in the programme as broadcast. The programme makers had taken all reasonable care fairly to present material facts, had been fair in their dealings with the Unification Church and had provided the Unification Church with extensive opportunity to contribute to the programme and respond to allegations made, including contributions by senior members of the Unification Church. Ofcom therefore found that there was no unfairness to the renamed FFWPU-UK in the programme as broadcast.

### **Introduction**

This documentary, subtitled *Reverend Sun Myung Moon Emperor of the Universe*, examined the life of Reverend Moon and the work of the Unification Church. It was made as part of the BBC2 *Reputations* series and first broadcast on 7 August 2001 and subsequently re-broadcast.

This complaint relates to a re-broadcast on BBC Prime which broadcasts BBC material overseas. European Channel Broadcasting Ltd is a BBC company which holds an Ofcom licence for the BBC Prime Service.

The Unification Church is now known as the Family Federation for World Peace and Unification (“FFWPU”). Mr Robin Marsh, who is the Public Affairs Director of the UK branch of the FFWPU (“FFWPU-UK”) and who appeared in the programme, brought this complaint on behalf of the FFWPU-UK.

### **The Complaint**

#### **Mr Marsh’s case**

In summary, Mr Marsh complained that the FFWPU-UK was treated unfairly in that:

- a) The programme makers promised the Unificationists that the programme would be balanced, and that they would be given the opportunity to have their side of the story considered fairly and sympathetically, but this was reneged upon;
- b) The programme makers used the term “moonie”, a term as derogatory and

- offensive as “nigger”, in spite of assurances to the contrary;
- c) The programme used commentary, with at times sinister undertones and prejudicial insinuation, in spite of assurances that there would be little or no commentary and that the story would tell itself;
  - d) The programme’s style was sensationalist and dishonest, in particular juxtaposing interviews with Unificationists against interviews with the ‘anti-cult movement’ without properly identifying the latter. This narrow range of views was also misleading in creating the impression that there is no ‘in-between’ position;
  - e) The programme makers ignored objective academic studies of Mr Moon and his movement;
  - f) The programme failed to acknowledge the fundamentally religious and spiritual nature of Mr Moon’s work;
  - g) The programme failed to give the FFWPU a right of reply over allegations, accusations or insinuations for example in relation to brainwashing, an issue where the programme also ignored academic views, and where the treatment was one-sided and inaccurate;
  - h) The programme also failed to give a right of reply in relation to:
    - the references to Mr Moon buying countries;
    - the allegations of the misuse of money;
    - the allegations of the Unification Movement’s failure to comply with banking, tax and immigration laws;
    - the comment that ‘you have to be prepared to die for ’ Mr Moon; and
    - the allegation of complicity in the Watergate conspiracy;
  - i) The programme gave only a token or wholly inadequate right of reply to:
    - the issue of how Mr Moon’s trial, conviction and incarceration were regarded by Unificationists and other bodies and individuals;
    - allegations of the misuse of money unrelated to the trial;
    - the comment by Allen Tate Wood on the Unificationist ‘Chastening ceremony’; and
    - allegations of Mr Moon’s excessive wealth and exploitation of members;
  - j) The programme contained factual errors which ranged from an indication of a lack of professionalism, to gross distortions of the truth:
    - the title of the programme ‘Emperor of the Universe’ is a term unknown to the Unificationists and is one coined by the anti-cult movement to cast Mr Moon in a political light;
    - the founding of the Washington Times newspaper was wrongly dated and wrongly ascribed a political motivation;
    - the programme included an assertion, by an authority on the 1970’s Fraser Congressional investigation into Mr Moon and the Unification Church, that Mr Moon was ‘working hand in hand’ with the Korean Government when the report of that investigation did not make that assertion;
    - the description of Mr Moon’s divorce and subsequent re-marriage;
    - mis-statements of Unification belief including the reference to Mr Moon claiming to have reached perfection;

- the misidentification of William Cheshire as a former Editor of the Washington Times;
- the programme makers ignored full briefing and included the suggestion that Hoon Sook Pak married 'a corpse in a coffin' in describing the posthumous, and entirely spiritual, union of Mr Moon's son with Pak;
- the programme makers also failed to give a right of reply on this subject;
- the death of Heung Jin Moon was wrongly dated and wrongly linked to the purchase of the Punte-del-este Uruguay estate; and
- the marriage of Choi Sun Gil and Mr Moon was wrongly dated.

### **The BBC's case**

In summary the BBC responded as follows:

- a) The BBC accepts that an assurance would have been given about "balanced and fair" treatment but this is not an undertaking to be uncritical. The programme gave a fair and balanced account of Mr Moon's life and career including contentious areas; indeed Mr Moon was banned from entering the UK on the grounds that his presence would not be conducive to the public good. And further, no mention was made of the FFWPU-UK in the programme.
- b) The producer recalls no promise not to use the word "moonie" which is a term inextricably linked to the Unification Church in the era of the sixties and seventies highlighted by the film, and remains in use today. The term was used proudly by Mr Moon's principal aide Bo Hi Pak, and it is absurd to equate it with terms like "nigger". The BBC as an organisation has given no undertaking to avoid its use and in the particular circumstances of this film its use was appropriate;
- c) *Reputations* has a commentary-driven format and the producer firmly recalls no promise that there would be "no" commentary in the programme and it would have been impossible to tell such a complex story without it;
- d) Juxtaposing interviews from opposing points of view is appropriate to a balanced and objective documentary. The anti-cult movement does not appear to be an organisation but is a term used by the Unification Church to denigrate its collective critics. The complaint states that anti-Moon contributors, in particular the American attorney Herbert Rosedale, were labelled inaccurately; in fact Mr Rosedale was described on-screen as an "anti-cult lawyer". The programme did reflect some "neutral" sentiment, showing that he was taken seriously by some Western statesmen;
- e) The programme included some of Mr Moon's strongest supporters expressing their affection and respect for him and his leadership. Academics rarely find a place on *Reputations*, which instead finds first-hand witnesses;
- f) The true nature of Mr Moon's work has been the subject of much contention. It has been difficult for the production team to identify within the Unification Church the accepted yardsticks of religious substance, but the Unification Church, in America at least, is associated with political rhetoric, lobbying, propagandising and ownership of companies including those engaged in the arms trade. There was substantial mention of Mr Moon's spiritual endeavours but few would deny Mr Moon had a strong degree of political motivation and worked hard to oppose communism. He also claimed to be the Messiah and it

was proper for the programme to concentrate on Mr Moon and the parts of the world where he has been most active;

- g) The concept of brainwashing was not “full-scale mind control” but a more narrowly defined legal concept. At the time of the original programme a Japanese court found the Unification Church guilty of coercive behaviour towards recruits. In the programme Mr Neil Salonen makes a strong statement that new members were not deprived of the advice and support of their families;
- h) Regarding right of reply, Mr Moon is indeed a convicted felon of great wealth, but the programme made clear his followers believe he was unfairly convicted, and that he “digs his hands in the dirt”. Again it is true his industrial empire owns companies which made guns;
- i) A point by point response (on right of reply issues) is not sensible; the question is whether Mr Moon’s supporters had sufficient opportunity to explain his outlook on wealth, lifestyle, religion and politics which they did explicitly or implicitly. There is not a significant instance in which supporters of Mr Moon were not able to present a counter-view or put accusations in the context of a wider view, apart from the testimony of close relatives which could only be answered by Mr Moon himself;
- j) Regarding claims of factual errors:
- the title Emperor of the Universe was drawn from the title Mr Moon awarded himself in a ceremony witnessed by his daughter-in-law who was interviewed in the programme, and encapsulated his Messianic status;
  - regarding the founding of the Washington Times, information from the Unification Church stated that contracts for the Washington Times were signed after Mr Moon’s indictment for tax fraud. The “Times” was part of an expensive lobbying effort in the American political style;
  - the Congressional Report stated that the Moon Organisation was a volatile factor in Korean American relations capable of distorting the perceptions each country held of each other, and the founder of the Korean CIA met secretly with a small group of Unification Church members. The Congressional investigator for the House Subcommittee on International Organisations Michael Hershman was interviewed for the programme and confirmed that the KCIA and Moon were hand in hand;
  - as there are differing accounts of Mr Moon’s divorce the brief summary in the script was not misleading;
  - in his book “Divine Principle” Moon says “he suffered so much he atoned for the sins of mankind and became perfect”. The Unification Church in Seoul confirmed to the producer that Mr Moon dictated this book;
  - William Cheshire’s designation as “Editor” was confirmed by Mr Cheshire;
  - Hoon Sook Pak cancelled her agreement to brief the production team about her posthumous marriage to Heung Jin, but Nansook Hong who was present clearly explains the corpse was not literally carried to the wedding;
  - the year of Heung Jin’s death was wrongly described as 1989 instead of 1984 due to a keyboard error, the shot was not of Mr Moon’s estate in Uruguay but of his home in Massachusetts; and,
  - UC representatives confirmed the account of Mr Moon’s first marriage given in 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 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 which require regulatory activities to be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

Although the complaint was brought by the FFWPU-UK, Ofcom's Fairness Committee first considered the complaints in relation to the Unification Church, which was the name of the organisation at the time the programme was broadcast. The Fairness Committee found the following:

- a) Mr Marsh complained that the programme makers promised that the programme would be balanced, and that the Unificationists would be given the opportunity to have their side of the story considered fairly and sympathetically but that this was reneged upon.

The Fairness Committee noted that this complaint, and Mr Marsh's complaints at heads (g), (h) and (i), related to whether the Unificationists were given an appropriate opportunity to respond to allegations made in the programme. Where a programme alleges wrongdoing or incompetence, or contains a damaging critique of an individual or organisation, those criticised should normally be given an appropriate and timely opportunity to respond to or comment on the arguments and evidence contained within that programme. The Fairness Committee found that the programme did contain elements which amounted to a damaging critique of the Unification Church.

The Fairness Committee wished to emphasise that such an opportunity to respond does not consist of a direct rebuttal to each and every line of commentary or point made in a programme. Rather the opportunity to contribute must be appropriate and fair in the overall context of the programme.

With this in mind, the Fairness Committee considered the complaint in the context of the overall contribution from the Unification Church. The Fairness Committee found that ample and extensive contributions were included from members of the Unification Church, including members of significant seniority, and these contributions were authoritative, informative and articulate. As a result, the Fairness Committee concluded that the Unification Church had been given an appropriate opportunity to respond and that there was no unfairness to the Unification Church in this respect in the programme as broadcast.

- b) Mr Marsh complained that the programme makers used the term "moonie", a term as derogatory and offensive as "nigger", in spite of assurances to the contrary.

The Fairness Committee noted that this complaint, and Mr Marsh's complaints at heads (d), (e), (f) and (j), related to the broadcaster's obligation to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. The Fairness

Committee considered that some elements of the programme were capable of adversely affecting the reputation of the Unification Church. The broadcasters were therefore obliged to take all reasonable steps to satisfy themselves that all material facts had been considered before transmission and so far as possible fairly presented.

In considering the use of the term “moonie” the Fairness Committee found that the letters provided by Mr Marsh did not show that the BBC had provided an undertaking not to use the term. Further the BBC cited a senior Unification Church member using the term to describe himself, and pointed to its use in the era highlighted by the film, namely the sixties and seventies. The Fairness Committee therefore found that the use of the term “moonie” did not result in unfairness to the Unification Church.

- c) Mr Marsh complained that the programme’s use of commentary resulted in unfairness to the Unificationists.

In its consideration of this complaint the Fairness Committee considered whether the programme makers were straightforward and fair in their dealings with the Unificationists. The Fairness Committee noted that *Reputations* is a series which makes use of commentary, and considered that the programme’s style would have been clear from previous editions. Indeed in the Fairness Committee’s view the commentary served to reinforce a fair account of the issues dealt with in the programme. It therefore concluded that there was no unfairness to the Unification Church in this respect in the programme as broadcast.

- d) As discussed above at Decision head (b), the Fairness Committee noted that the broadcasters were obliged to take all reasonable steps to satisfy themselves that all material facts had been considered before transmission and so far as possible fairly presented. The Fairness Committee found that the juxtaposition of interviews resulted in no unfairness, the labelling of interviewees was fair, even scrupulous, and identified “anti-cult” allegiance. The Fairness Committee therefore found that there was no unfairness to the Unification Church in this respect in the programme as broadcast.
- e) As discussed above at Decision head (b), the Fairness Committee noted that the broadcasters were obliged to take all reasonable steps to satisfy themselves that all material facts had been considered before transmission and so far as possible fairly presented. The programme was not an analysis of academic research, rather it set out to include first hand testimony from a variety of perspectives. The Fairness Committee therefore found no unfairness in the inclusion or otherwise of academic studies.
- f) As discussed above at Decision head (b), the Fairness Committee noted that the broadcasters were obliged to take all reasonable steps to satisfy themselves that all material facts had been considered before transmission and so far as possible fairly presented. The programme did not fail to acknowledge the religious and spiritual nature of Mr Moon’s work, indeed it included contributions from senior members of the Unification Church, which fully acknowledged this aspect. The Fairness Committee therefore found no unfairness regarding acknowledgement of the religious and spiritual nature of Mr Moon’s work.
- g) For the reasons discussed above at Decision head (a) the Fairness Committee

concluded that there was no unfairness to the Unification Church in this respect in the programme as broadcast.

- h) For the reasons discussed above at Decision head (a) the Fairness Committee concluded that there was no unfairness to the Unification Church in this respect in the programme as broadcast.
- i) For the reasons discussed above at Decision head (a) the Fairness Committee concluded that there was no unfairness to the Unification Church in this respect in the programme as broadcast.
- j) As discussed above at Decision head (b), the Fairness Committee noted that the broadcasters were obliged to take all reasonable steps to satisfy themselves that all material facts had been considered before transmission and so far as possible fairly presented.

In its consideration of the complaints of factual errors which, Mr Marsh stated, resulted in unfairness to the Unification Church, the Fairness Committee considered that the BBC provided evidence from relevant witnesses and publications to support the inclusion of the material complained of, namely the title "Emperor of the Universe", the references to the founding of the Washington Times newspaper and the assertion by an authority on the Fraser Congressional investigation.

Further the account of Mr Moon's divorce and subsequent re-marriage was fairly summarised in the commentary which stated:

"Divorcing his first wife he married a woman twenty years younger than himself".

The Fairness Committee also found that the section of the programme dealing with the posthumous marriage provided a fair account of the ceremony. Noting the section in its entirety, the Fairness Committee found that it included an interviewee's statement:

"She married with his picture...in her arms"

A follow up exchange stated:

"So it was an ordinary wedding except that the bridegroom wasn't there?"  
"Yeah, exactly, yes."

In these circumstances, the Fairness Committee considered that it was likely to have been clear to viewers that the corpse of Mr Moon's son was not present at the posthumous marriage ceremony. The Fairness Committee therefore found no unfairness in this respect.

The BBC accepted that the death of Heung Jin Moon was wrongly dated, but the Fairness Committee considered that this would not have affected viewers' understanding of the events and issues that were being presented. Consequently, the Fairness Committee found that this error did not result in unfairness to the Unification Church.

## Conclusion

The Fairness Committee concluded that there was no unfairness, in relation to Mr Marsh's complaints concerning the programme as broadcast, to the Unification Church, which was the organisation named in the programme (see Decision above at heads (a) to (j)).

The Fairness Committee, noting that the Unification Church is now known as the Family Federation for World Peace and Unification (FFWPU), therefore found no unfairness, in relation to these complaints concerning the programme as broadcast, to the UK branch of the FFWPU on whose behalf Mr Marsh complained.

**The complaint of unfair treatment was not upheld.**

## Other programmes not in breach/out of remit

18 January 2006 – 31 January 2006

Programme	Trans Date	Channel	Category	No of Complaints
10 Years Younger	12/01/2006	Channel 4	Offence	1
			Religious	
100 Greatest Christmas Moments	18/12/2005	Channel 4	Offence	1
A Place in the Sun	05/01/2006	Channel 4	Misleading	3
An Audience with Joan Rivers	14/01/2006	ITV1	Other	2
Animals	12/01/2006	Channel 4	Other	3
Balderdash & Piffle	02/01/2006	BBC2	Offence	1
Bam Bam Breakfast Show	02/11/2005	Kiss 100FM	Offence	2
Bam Bam Breakfast Show	25/11/2005	Kiss 100FM	Accuracy	1
			Religious	
BBC News	04/01/2006	BBC1	Offence	1
BBC News	16/01/2006	BBC1	Impartiality	1
BBC News 24	19/01/2006	BBC News 24	Impartiality	2
		BBC Radio 1		
BBC Radio 1Xtra	02/10/2005	Xtra	Offence	1
BBC Radio 4	03/12/2005	BBC Radio 4	Language	1
BBC Radio WM	03/01/2006	BBC Radio WM	Other	2
BBC World	24/09/2005	BBC World	Offence	1
Big Fat Quiz of the Year	26/12/2005	Channel 4	Language	1
Brainiac: Science Abuse	08/09/2005	Sky One	Offence	1
Bremner, Bird & Fortune	08/01/2006	Channel 4	Language	1
Building the Impossible	06/01/2006	UKTV History	Language	1
C4-Catch Up Sunday Promotion	13/01/2006	E4	Offence	1
Calendar	03/01/2006	ITV1	Other	1
Calendar	31/10/2005	ITV1	Offence	1
Casualty	07/01/2006	BBC1	Violence	1
Celebrity Big Brother	12/01/2006	Channel 4	Sexual Portrayal	1
Celebrity Big Brother	20/01/2006	Channel 4	Misleading	1
Channel 4 News	22/12/2005	Channel 4	Other	1
Channel 4 Racing	03/01/2006	Channel 4	Offence	1
Charlie Wolf	11/12/2005	Talksport	Impartiality	1
Coronation Street	30/12/2005	ITV1	Offence	3
Coronation Street	09/01/2006	ITV1	Language	1
Coronation Street	16/01/2006	ITV1	Other	2
Coronation Street	18/01/2006	ITV1	Language	1
Dances With Wolves	25/12/2005	Five	Scheduling	1
Deadsville	13/01/2006	Channel 4	Offence	1
Death Wish Live	30/01/2006	E4	Other	1
Diet Doctors	08/01/2006	Five	Other	1
Dr Who	04/01/2006	BBC1	Other	1
Drawn Together	09/12/2005	MTV	Offence	1
Drivetime	20/12/2005	Nevis Radio	Sexual Portrayal	1

Eastenders	31/12/2005	BBC1	Violence	1
Emmerdale	04/12/2005	ITV2	Offence	1
Five News	04/01/2006	Five	Impartiality	1
Five News	13/01/2006	Five	Other	1
Fox News	05/07/2005	Fox News	Offence	1
Fox News	18/11/2005	Fox News	Other	1
Gay Army	20/11/2005	Kanal 5 (Sweden)	Other	1
Gay Muslims	23/01/2006	Channel 4	Offence	1
GMTV	03/01/2006	ITV1	Other	1
GMTV	10/01/2006	ITV1	Other	2
GMTV	19/01/2006	ITV1	Other	1
Holby City	10/01/2006	BBC1	Other	4
Holly and Stephen's Saturday Showdown	07/01/2006	ITV1	Sexual Portrayal	3
Holly and Stephen's Saturday Showdown	21/01/2006	ITV1	Offence	1
Ian Collins	11/01/2006	Talksport	Other	1
ITV News	04/11/2005	ITV1	Impartiality	3
ITV News	03/01/2006	ITV1	Impartiality	3
ITV News	04/01/2006	ITV1	Violence	1
ITV News	08/01/2006	ITV1	Other	1
ITV News	09/01/2006	ITV1	Other	1
James Whale Show	04/01/2006	Talksport	Other	1
Jeremy Vine	12/01/2006	BBC Radio 2	Other	1
Kiss FM	14/01/2006	Kiss 100FM	Other	1
Law and Order	03/01/2006	Hallmark	Misleading	1
Life & Adventures of Nicholas Nickleby	20/11/2005	ITV1	Sexual Portrayal	1
Live TV	16/01/2006	Live TV	Sexual Portrayal	1
Massive Balls of Steel	17/12/2005	E4	Other	1
Mischief	31/12/2005	BBC3	Sexual Portrayal	1
Most Haunted	31/10/2005	Living	Misleading	1
Open Wide	21/12/2005	ITV1	Language	1
Poirot	01/01/2006	ITV1	Offence	2
Quizmania	08/01/2006	ITV1	Other	1
Richard and Judy	09/01/2006	Channel 4	Sexual Portrayal	1
Richard Hammond's 5 O'Clock Show	03/01/2006	ITV1	Violence	1
Ricky Gervais Meets ... Larry David	05/01/2006	Channel 4	Language	2
Rome	02/11/2005	BBC2	Offence	1
Rome	16/01/2006	BBC2	Offence	1
Rome	18/01/2006	BBC2	Offence	1
Safer Scotland	06/01/2006	STV	Impartiality	1
Sky News	03/12/2005	Sky News	Violence	1
Sky News	21/12/2005	Sky News	Accuracy	1
Soapstar Superstar	14/01/2006	ITV1	Other	1
Sunset Beach	12/01/2006	Five	Scheduling	1
Sunset Beach	13/01/2006	Five	Scheduling	1
T4	03/12/2005	Channel 4	Sexual Portrayal	1
Taggart	16/12/2005	ITV1	Violence	1
Talksport	03/01/2006	Talksport	Sexual Portrayal	1
Television X	08/12/2005	Television X	Sexual Portrayal	1

Television X	10/12/2005	Television X	Sexual Portrayal	1
Television X	16/12/2005	Television X	Sexual Portrayal	1
Television X	30/12/2005	Television X	Sexual Portrayal	1
Television X	31/12/2005	Television X	Sexual Portrayal	1
The 50 Greatest Comedy Films	01/01/2006	Channel 4	Violence	1
The 50 Greatest Comedy Films	01/01/2006	Channel 4	Language	1
The Bill	26/11/2003	ITV1	Offence	1
The Bloody Circus	03/01/2006	Channel 4	Offence	1
The Bloody Circus	09/01/2006	Channel 4	Other	2
The Bloody Circus	11/01/2006	Channel 4	Other	2
The Chris Moyles Show	06/12/2005	BBC Radio 1	Offence	1
The Crocodile Hunter Diaries	15/01/2006	ITV1	Offence	1
The Family Man	29/12/2005	Channel 4	Scheduling	1
The Friday Night Project	13/01/2006	Channel 4	Other	2
The Goonies	29/12/2005	BBC1	Offence	1
The Simpsons	02/01/2006	Channel 4	Offence	1
The Simpsons	05/01/2006	Channel 4	Other	1
The Unique Dave Allen	27/12/2005	BBC2	Religious Offence	1
The Wright Stuff	13/01/2006	Five	Offence	1
The X Factor	05/11/2005	ITV1	Offence	1
The X Factor	19/11/2005	ITV1	Offence	1
The X Factor	03/12/2005	ITV1	Offence	1
This Morning	06/01/2006	ITV1	Other	1
Titty Bang Bang	10/01/2006	BBC3	Offence	1
TMF - The Music Factory	07/01/2006	TMF	Violence	1
Tourists From Hell	20/12/2005	ITV1	Accuracy	1
Trapped	06/01/2006	Five	Scheduling	1
Trisha Goddard	20/12/2005	Five	Other	1
Two Pints of Lager and a Packet of Crisp	20/12/2005	BBC3	Language	1
Westwood Rap Show	16/01/2006	BBC Radio 1	Impartiality	1
Wolf Creek	14/01/2006	Channel 4	Violence	1
You've Been Framed	08/01/2006	ITV1	Violence	1