

# **Ofcom broadcast bulletin**

**Issue number 39  
18 July 2005**

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## Introduction

The Communications Act 2003 allows for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. Ofcom consulted in 2004 on its new Code. Ofcom's Broadcasting Code has now been published and will take effect from 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005).

The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The codes and rules currently in force for broadcast content are:

- 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 Scheduling 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 formal sanctions by Ofcom).

*Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: [www.ofcom.org.uk](http://www.ofcom.org.uk)*

## Standards cases

### Sanctions

#### **Video Interactive Television Plc in respect of its service Channel U**

*Various dates in March, May and June 2004*

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On 21 June 2005 Ofcom published its decision to impose a financial sanction on Video Interactive Television Plc, in respect of its service Channel U, for seriously breaching:

- the Programme Code by showing adult material on an unencrypted music channel, promoting the sale of a commercial products within programmes and promoting premium rate telephone numbers within programmes;
- the Advertising Standards Code by advertising adult chat/text lines, failing to ensure a clear distinction between programmes and advertisements and including illegible superimposed text;
- the Code of Programme Sponsorship by including advertiser references in a viewer competition; and
- Condition 11 of its licence by failing to comply with its obligation to retain and produce recordings

Taking into account the licensee's history of compliance failure and the repeated and sustained nature of the breaches, Ofcom's Content Sanctions Committee concluded that an appropriate fine was £18,000 payable to Ofcom for forwarding to the Treasury.

The full text of this decision can be found at

[http://www.ofcom.org.uk/tv/obb/ocsc\\_adjud/channelu.pdf/](http://www.ofcom.org.uk/tv/obb/ocsc_adjud/channelu.pdf/)

## **Life TV Media Ltd in respect of its service Life TV**

*5 April 2004 and 26 April 2004 onwards*

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On 21 June 2005 Ofcom published its decision to impose a financial sanction on Life TV Media Ltd, in respect of its service Life TV.

Life TV broadcast, on 5 April 2004, the programme *European Union: Shock Waves*. It was subsequently broadcast on 35 further occasions. The programme was a highly partial critique of the European Union and there were no other viewpoints either in the programme or the service as a whole. The programme therefore breached:

- Section 3.3 (Programme Content: 'Major Matters' - requirement for due impartiality on major matters of political controversy) of the Programme Code.

The programme was presented by Trevor Colman who was, at the time of broadcast, standing as a UK Independence Party candidate for the European elections. The programme was transmitted within the 'election period' of the European Parliamentary Elections. It therefore breached:

- Section 4.3 (Programmes at the Time of Elections – requirement to ensure and maintain due impartiality during elections) of the Programme Code.

Life TV also broadcast, on 26 April 2004, the programme *The Real Face of the European Union*. It was subsequently broadcast on 24 further occasions. This programme contained highly partial criticisms of the European Union in content and tone. The programme was a highly partial critique of the European Union and there were no other viewpoints either in the programme or the service as a whole. The programme therefore breached:

- Section 3.3 (Programme Content: 'Major Matters' - requirement for due impartiality on major matters of political controversy) of the Programme Code.

Taking into account the seriousness and sustained nature of the breaches, Ofcom's Content Sanctions Committee concluded that an appropriate fine was £12,000 payable to Ofcom for forwarding to the Treasury.

The full text of this decision can be found at

[http://www.ofcom.org.uk/tv/obb/ocsc\\_adjud/lifetv.pdf/](http://www.ofcom.org.uk/tv/obb/ocsc_adjud/lifetv.pdf/)

## In Breach

### Formula 1 racing – San Marino Grand Prix

*ITV1, 24 April 2005, 12:00*

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#### Introduction

126 viewers complained about various aspects of ITV's coverage of this event and in particular the advertising break pattern.

The main complaint concerned the placement and length of the final break in the race. The break (lasting 2 minutes 30 seconds) occurred just as the race, by then a close contest between Alonso and Schumacher, was entering its closing stage and finished just before the final lap. The complainants argued that the location of the break and its duration were unacceptable, depriving viewers of live coverage of a vital part of the race and destroying the tension that had built up during the event. They suggested that the break could (and should) have been placed elsewhere, either within the race or preferably in pre/post race sections of the programme. Many also objected to the perceived differences between coverage of football and F1 in placement and frequency of breaks – likening the positioning of the final race break in this instance to cutting to advertising during a penalty shoot out.

They also complained about other aspects of the coverage and the pattern of advertising breaks. A number criticised the fact that a further break (also of 2 minutes 30 seconds) was taken very shortly after the finish of the race, saying that this simply compounded their impression that the advertising was taking precedence over programme integrity/quality. Others argued that a replay of the 'missing' three or so laps after the race was inadequate compensation for loss of live coverage at a crucial stage and also led to shortened coverage of the press conference, missing the appearance of the British driver Jensen Button. A number asked that the coverage be handed back to the BBC.

We wrote to the broadcaster querying how the coverage complied with its Rules on the Amount and Scheduling of Advertising and in particular Section 6.7(b), dealing with placement of breaks in sports coverage. This rule states that in live coverage of long continuous sporting events, breaks may be taken at points where the focus of coverage shifts from one point to another of the event.

#### Response

ITV accepted that the final break in the race had been in breach of RASA Section 6.7, having been taken at an inappropriate time. It assured us that it understood the requirements of this rule and took very seriously the need to ensure that the quality of the viewing experience was maintained at the highest standards.

It outlined the steps normally taken to ensure that breaks were taken at appropriate times during the race. The production team were in continual liaison with the teams' pit crews to determine when drivers were to be called in for pit stops or other planned actions. This communication helped to ensure that breaks were not taken at crucial moments in a race. ITV argued that the San Marino Grand Prix had had an exceptional ending where, for the last 15 minutes, Michael Schumacher was vying to overtake Fernando Alonso. The production team would normally wait for the outcome of the situation to avoid being in a break at the crucial moment. As the race progressed, the point at which the last race break would normally be taken passed

and a judgement call was required. To take a break before the situation was resolved could have resulted in missing the action. With time running out, the decision was eventually made to take the break. In retrospect the break should have been taken earlier but at the time it had been a difficult call to make.

ITV said that the analogy suggested by viewers between football & motor-racing comparison did not stand in terms of how breaks interrupted the Formula 1 coverage. The focus during a football match lay with the ball which was the same for the actual spectators at a match. In motor racing, spectators only saw brief glimpses of the action from static positions, whereas the television coverage shows many points of action and follows many different focus points showing, where possible, the most interesting and exciting action. This meant that coverage was switched from one action point to another and any exciting action not seen by viewers, whether due to the taking of a commercial break or from events of interest occurring at the same time, were always replayed as soon as practical.

The break taken shortly after a race finished was always taken after the last 'points scoring' car crossed the finish line but before the drivers got to the podium. The apparent issue in this case had stemmed from the previous break being taken very near the end of the race.

The replay of the last 3 laps had been required to provide viewers with the best coverage possible; the replay of events was an essential part of Formula 1 coverage where action has been missed for whatever reason. On this particular occasion this did reduce the time available for the press conference and post race analysis leaving no time to show the Jensen Button interview.

ITV also added that it undertook extensive research at the start of its coverage of Formula 1 and this had been the established break pattern for the last eight years based on the audience feedback.

## **Decision**

We acknowledge the points made by ITV about its coverage of Formula 1 racing and recognise the problems it had faced in finding an appropriate point for the final race break due to the way the race had developed. We agree that the final race break was in breach of the Rules on the Amount and Scheduling of Advertising, having been taken during an ongoing focus on the battle between the lead drivers, where no natural break point had been present.

**The output breached Section 6.7(b) (natural breaks in sports programming) of the Rules on Amount and Scheduling of Advertising**

## Resolved

### News

*ITV 1, 9 June 2005, 12.30*

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#### Introduction

A viewer complained that a video clip about children playing on railway lines displayed a website address for a site containing hard core pornography. The viewer had accessed the site on the assumption that it was related to the news item and was shocked by the content.

#### Response

ITN said that it had been aware before transmission that the video clip included a visible website address and understood the need to check the site's content. It had attempted to enter the website, but was denied access. It therefore presumed that the site was no longer active and that there was no need to obscure the address on screen.

However it subsequently realised that access had been denied by the firewall on ITN's own internal computer system, which prevents access to such sites. Once it became aware that the public could access the site, the editorial team was alerted and the address was obscured for news bulletins later in the day.

ITN accepted that the website address should not have been included in the broadcast, and apologised for the error which had led to its inclusion in the lunchtime bulletin. The importance of stringent checks has been reinforced to editorial staff.

#### Decision

We accept ITN's explanation of how the website address came to be transmitted. We appreciate that it had taken action to try to determine the website's content prior to broadcast and welcome the action taken.

#### Complaint resolved

## **Frank Skinner Show**

*ITV2, 8 April 2005, 23:50*

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### **Introduction**

On the day of Pope John Paul II's funeral, ITV2 repeated the above programme, which featured an interview with the singer Shane MacGowan. Mr MacGowan commented that people had been expecting him to die for the last 25 years. The host replied, *"It's like the Pope. Everyone says he's going to die any minute and he's still battling on. It's brilliant..."*

A viewer complained that the subject, and its treatment by the host, was offensive in itself but was compounded by the programme being repeated on the day of the Pope's funeral.

### **Response**

ITV apologised unreservedly for having caused offence. It would not have intentionally transmitted such remarks about the Pope after his death.

It explained that programmes are routinely reviewed prior to repeat transmission on ITV2, mainly to protect against the broadcast of remarks which had been rendered inappropriate by events subsequent to the original recording. However, transcripts were not routinely prepared from unscripted programmes such as this. It was also not practical to keep a detailed file on all the topics, references and jokes within a chat show. Reviewing was usually carried out several days in advance of the scheduled repeat date, and was sometimes complicated by further re-scheduling.

On this occasion it appeared that the programme was reviewed before the death of the Pope and the remarks were not spotted immediately pre-transmission.

ITV said that this was an oversight which had prompted it to review and tighten its processes to minimise any risk of recurrence.

### **Decision**

We do not consider that the remarks in themselves were offensive or in breach of the Programme Code. They were said in the context of a light-hearted interview and originally broadcast before the death of the Pope.

The retransmission of the programme raises different concerns. Section 1.11 (Recorded Programmes) of the Programme Code states that "programmes not used immediately should be checked before transmission to ensure that any content is not rendered tasteless or offensive by intervening events such as death, injury or other misfortune".

However, in view of the broadcaster's unreserved apology and remedial action, we consider the matter resolved.

### **Complaint resolved**

## **Gadgets, Gadgets, Gadgets**

*Bravo, 5 April 2005, 12:00*

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### **Introduction**

One viewer complained about an item reviewing a scooter-like vehicle, the Mantis XP. The presenter said that it was illegal to ride the vehicle on the road but that "...weirdly, you are allowed to cause mayhem on it on the pavement."

The complainant considered that this was incorrect and could lead to viewers breaking road traffic law.

### **Response**

Flextech Television said that Bravo had a target audience of men aged between 18 and 34 years of age. *Gadgets Gadgets Gadgets* examined quirky technological innovation as well as reviewing gadgets new to the market.

Flextech said that the comment was not intended to condone or encourage disorder. It was light-hearted and in keeping with the expectations of the young male-oriented Bravo audience. The production company was adamant that its original research bore out the fact that it was possible to use the vehicle on the pavement. However, the company was not now able to locate that research.

The broadcaster suggested that there was confusion regarding the legal position. It said that its research, involving both the Department of Transport and the marketing of the vehicle, indicated that the vehicle could not be clearly categorised. However, it stressed that it did not transmit any content that could encourage or incite any illegal activity.

Flextech said that, because of the lack of legal clarity and to avoid further viewer confusion, it had edited the item for all future broadcasts.

### **Decision**

Our own enquiries called into question the legality of riding the vehicle on the pavement. However, we were advised that, for a definitive legal answer, a case involving the vehicle would need to be brought before the courts.

In view of this, and on the basis of the broadcaster's response, we consider the matter resolved.

### **Complaint resolved**

## Other programmes not in breach/out of remit

15 June – 28 June

Programme	Trans Date	Channel	Category	No. of Complaints
8 Out of 10 Cats	17/06/2005	Channel 4	Offence	1
Animal Passions	21/06/2005	Channel 4	Offence	1
Bad Girls	14/06/2005	ITV1	Offence	1
Bad Girls	21/06/2005	ITV1	Violence	1
Bargain Hunt Live	22/06/2005	BBC1	Misleading	1
BBC News	13/06/2005	BBC1	Other	1
Big Brother 6	25/05/2005	Channel 4	Offence	1
Big Brother 6	15/06/2005	Channel 4	Offence	1
Big Brother 6	16/06/2005	Channel 4	Offence	1
Big Brother 6	20/06/2005	S4C	Offence	1
Big Brother 6	23/05/2005	Channel 4	Offence	1
Big Brother 6	21/06/2005	Channel 4	Offence	1
Big Brother 6	17/06/2005	Channel 4	Offence	1
Big Brother 6	22/06/2005	Channel 4	Offence	1
Big Brother's Little Brother	14/06/2005	Channel 4	Language	1
Big Ideas the Changed the World	21/06/2005	Five	Offence	1
Bikini Beach	27/05/2005	Hollywood TV	Offence	1
Bikini Beach	16/06/2005	Hollywood TV	Misleading	1
Cash Cab	21/06/2005	ITV1	Offence	4
CD:UK	18/06/2005	ITV1	Offence	1
Celebrity Love Island	07/06/2005	ITV1	Offence	1
Celebrity Love Island	20/06/2005	ITV1	Offence	2
Celebrity Love Island	18/06/2005	ITV1	Offence	1
Celebrity Love Island	16/06/2005	ITV1	Offence	1
Channel 4 Ashes promotion	14/06/2005	Channel 4	Offence	1
Channel 4 News	12/06/2005	Channel 4	Offence	1
Daisy Sampson	30/05/2005	LBC97.3	Other	1
Dr Who	18/06/2005	BBC1	Offence	2
Dream Team	20/11/2004	Sky One	Sexual Portrayal	1
Election 2005: Ask the Leaders. . .	18/04/2005		Impartiality	1
Fashion TV	21/06/2005	Satellite & Cable	Language	1
Fat families	23/06/2005	ITV1	Offence	1
Five News	14/05/2005	Five	Offence	1
Footballers' Wives	07/04/2005	ITV1	Offence	1
Fox News	07/06/2005	Fox News	Offence	1
Galaxy 102	11/05/2005	Galaxy 102.2	Language	1
Gay Date TV	21/06/2005	Satellite & Cable	Offence	1
Geldof in Africa	20/06/2005	BBC1	Language	1
GMTV	10/06/2005	ITV1	Offence	1
Holby City	07/06/2005	BBC1	Offence	1
ITV News	16/06/2005	ITV1	Offence	1
ITV News	15/06/2005	ITV1	Offence	1

Jerry Springer - The Opera	08/01/2005	BBC2	Religious Offence	1
Kerrang Radio	10/06/2005	Kerrang!	Language	1
Kerrang Radio	12/06/2005	Kerrang!	Offence	1
LBC Programme	01/05/2005	LBC97.3	Offence	1
LBC Programme	13/05/2005	LBC97.3	Offence	1
Man vs Beast USA	22/06/2005	ITV2	Offence	1
Man vs Beast USA	24/06/2005	ITV2	Offence	4
Mock of the Week	19/06/2005	BBC2	Offence	1
Monkey Trousers	16/06/2005	ITV2	Offence	1
Most Haunted Live	14/06/2005	Living	Offence	1
Murder in Suburbia	11/06/2005	ITV1	Offence	2
National Television Awards	26/10/2004	ITV1	Language	1
Neighbours	13/06/2005	BBC1	Offence	1
Panjab Radio	07/01/2005	Satellite & Cable	Religious Offence	1
Panorama	14/06/2005	BBC1	Offence	1
Red Hot Films	09/06/2005	Channel 4	Sexual Portrayal	1
Sony Entertainment TV Asia	-	Satellite & Cable	Offence	1
Star Scandals with Johnny Vaughan	24/06/2005	Channel 4	Offence	1
Sugar Rush	19/06/2005	Channel 4	Offence	2
Sugar Rush	22/06/2005	Channel 4	Offence	1
Sugar Rush	21/06/2005	Channel 4	Offence	2
T4	11/06/2005	Channel 4	Sexual Portrayal	1
T4	12/06/2005	Channel 4	Offence	1
Talksport	17/04/2004	102.2 Jazz FM	Impartiality	2
Teen Angels	22/06/2005	BBC1	Offence	1
The Bill	08/06/2005	ITV1	Offence	1
The Farm	16/06/2005	Five	Offence	1
The Hits	07/06/2005	The Hits	Offence	1
The Strangest Village in Britain	16/06/2005	Channel 4	Offence	1
This Morning	14/06/2005	ITV1	Offence	1
Threesome	15/05/2005	ITV2	Sexual Portrayal	1
Tonight with Trevor McDonald	03/06/2005	ITV1	Offence	1
Top Gear	19/06/2005	BBC2	Offence	1
Town & Country	15/05/2005	ITV1	Offence	1
Trisha Goddard	15/06/2005	Five	Offence	1
Weather	18/05/2005	BBC1	Offence	1
Who Wants to be a Millionaire	28/05/2005	ITV	Misleading	1
XFM	04/06/2005	XFM	Language	1
You are what you eat	22/06/2005	Channel 4	Language	1