

Ofcom broadcast bulletin

**Issue number 38
4 July 2005**

Contents

Introduction	3
--------------	---

Standards cases

In Breach	4
-----------	---

Resolved	6
----------	---

Other programmes not in breach/outside remit	11
--	----

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 comes 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

Standards cases

In Breach

The Best of James Stannage

The Hits, 16 March 2005, 03:20

Introduction

This programme mixed music with highlights of the presenter's late night 'phone-in, originally broadcast on Key 103 FM (Manchester). A listener was concerned about the presenter's abuse of an Iraq war veteran, who had originally called Key 103 in April 2004.

The veteran had just started to explain why he approved of Britain's intervention in Iraq and query why Iraqis were retaliating against British troops, when the presenter said: "You went in there 'cos you were told to – you don't give a shit". When the presenter then asked the veteran if he knew how naïve he sounded, the veteran responded: "I might sound naïve but at the end of the day I'm not the one that's pretentious and don't give a shit about the world; I'm the one that went in the army, myself...". The presenter then interrupted, largely preventing the caller from adding anything other than his age. He referred to the veteran as a "brainless little dickhead", told him to "shut yer gob" and challenged his "right to join up and go and fire weapons at innocent people". He then called the veteran, "a naïve little baby ... a silly little boy", adding, "I'm disgusted by you, I'm disgusted by people like you and the people who join up ... you're a little sperm. Please don't insult my intelligence ... you're a little baby boy. You know, and if you'd got blown up and had your head blown off, right, maybe it would've taught you a bleedin' lesson ... you stupid bastard, you went there 'cos you were bleedin' told to, 'cos you join up and they'll send you anywhere in the friggin' world they bleedin' want you – you sad pathetic brainless little toerag!".

Response

The Hits told us that the presenter was well known for his "robust, provocative, challenging and, occasionally, argumentative style" and that the clips chosen for The Hits reflected this. It added that, as the original broadcasts were live and covered a wide range of topics, the content was often controversial and sometimes close to the limit of what is permissible. Consequently, it had a system of logging compilation items so that, in the event of a complaint about the original broadcast on Key 103 FM, the repeat clip could be withdrawn from the subsequent broadcast on The Hits, to avoid compounding matters.

However, the station acknowledged that when the presenter had disagreed with the caller, he had shouted him down and terminated the call without giving him an adequate opportunity to express his view or challenge those of the presenter. It also acknowledged that the presenter's comments about the caller and other members of the armed forces may have caused offence.

The broadcaster referred to action Key 103 FM had undertaken in February 2005, as part of a disciplinary procedure taken against the presenter. This was in response to a number of complaints concerning his live output. The Hits apologised for its failure

to identify that the item was unsuitable for re-transmission. It assured us that its selection process for compilation programmes had been reviewed, to avoid any recurrence.

Decision

The presenter failed to allow an appropriate and adequate response from others, given with equivalent force, in breach of Rule 1.4 (Presenters' Views) of the News and Current Affairs Code. His subsequent stream of personal abuse was also likely to have caused offence and so in breach of Section 1 (Taste, Decency, Offence to Public Feeling...) of the Programme Code, despite his reputation for being outspoken. We welcome the broadcaster's action and assurances concerning future output. However, we remain concerned that this item had been chosen for re-broadcast by The Hits.

The programme was in breach of Rule 1.4 (Presenters' Views) of The News and Current Affairs Code and Section 1 (Taste, Decency, Offence to Public Feeling...) of the Programme Code

Resolved

Breakfast Show sponsorship

Channel 103 FM (Jersey), various dates May 2005, 06:00

Introduction

The sponsor credit for the breakfast show referred to, “Cherry Godfrey – home of the 100% mortgage...”. Omega Financial Services Limited, a competitor, believed the statement was misleading, as it believed 100% mortgages do not exist in Jersey.

The Codes require that sponsorships for financial products and services are scripted and submitted for central copy clearance by the Radio Advertising Clearance Centre (RACC).

Response

Channel 103 FM apologised for not having sought RACC clearance of the sponsor credit prior to broadcast. This had been a mistake and it assured us that it had changed its operational procedures to ensure that all financial sponsorship credits would be centrally cleared in future.

Decision

We instructed the broadcaster to remove the sponsor credit from air until the appropriate approval had been obtained. However, we welcomed the assurances given and the action taken to ensure future Code compliance. We consider the matter of the sponsorship credit resolved.

Complaint resolved

Soccer AM All Sports Show

Sky Sports 1, 9 April 2005, 20:00

Introduction

In this sports related programme, a presenter announced that they had got some brand new boots to show viewers that were particularly popular in the U.S. They added that the boots were worn by 25% of the NBA stars. The 'Recognise' brand of basketball boots from the 'And1' range was then featured. This was followed by a discussion of next season's boots which viewers were told would be available in October from unnamed selected stores and cost £70. Each pair of boots was given comprehensive coverage, including a full description of their features, with close-ups. We were concerned about issues of Product Placement and Undue Prominence.

Response

Sky said that the *Soccer AM All Sports Show* took a light-hearted look at a variety of sports and sports related issues with two presenters, who treated most items in an irreverent fashion. The series regularly featured new items of sports kit which might be of interest to viewers. Recent items had included Super League shirts, various running shoes, the England cricket shirt and a motorised golf trolley. Sky said that the feature was editorially justified for inclusion in the show as these particular boots were very popular with top American basketball players and would also be regarded as highly fashionable items.

While the boots had been sent to researchers by the manufacturer, no valuable consideration had been received in return for the broadcast. However, the broadcaster acknowledged that, while neither the manufacturer nor retailer had influenced how the boots appeared in the programme, the feature "may have gone too far in providing information about the product in question." It said that it had now discussed the matter with the relevant production staff. Sky assured us that similar output would, in future, be produced in a manner that avoided giving any impression of external commercial influence on the programme as required by the Code.

Decision

Our investigations did not produce any evidence that product placement had occurred. However, we remain concerned about the level of detailed information given about this particular brand of basketball boots. We welcome the broadcaster's recognition of this and its assurance that future programmes will avoid undue prominence of commercial products.

Complaint resolved

Road Sign Quiz

Nation 217, 16 May 2005, 23.00

Introduction

A competition involved viewers being shown a number of road signs and asked to call a premium rate telephone number to identify those that were incorrect. A complainant claimed that all the signs shown were correct and therefore that the competition could not be won.

Response

Nation 217 told us that in such competitions, a number of common road signs are displayed on screen, with some slightly changed. On this occasion, however, the 'answer' slide was displayed, showing all the correct road signs. Shortly into the competition the mistake was spotted, the game removed and a new puzzle started. However, during the competition, a caller had claimed that none of the signs were incorrect. At the time, this had been discounted as a wrong answer. Following a post show review, this entrant was contacted and sent a cheque for £250, the prize that had been offered at the time of their call, and all subsequent callers were refunded their call costs. The broadcaster added that it had put new systems in place to ensure the error was not repeated.

Decision

While the broadcaster had clearly made a mistake, the competition had been won retrospectively. We welcomed the action taken by the broadcaster and its assurance concerning future output. This satisfactorily resolved the matter.

Complaint resolved

The Brit Awards – Green Day

ITV1, 10 February 2005, 20:50

Introduction

As part of the Awards Ceremony, the band Green Day performed their song 'American Idiot' on stage with accompanying lighting effects. One viewer complained that the performance contained 'flashing' light effects. She said that these were of such an intensity and frequency that they were at risk of triggering epileptic seizures in viewers who were susceptible to photo-sensitive epilepsy.

Response

ITV said that the Ceremony was filmed live on the evening of 9 February 2005, and the footage was edited for transmission over the following day. In line with ITV's normal procedure for complying with Ofcom's Flashing Images Guidance^{*}, it used dedicated equipment to check for potential flashing images problems in the post-production edit. The automated equipment indicated that some portions of the performance were potentially problematic, and these sequences were edited in order to address the issue. The footage was checked again just prior to transmission as part of a final technical compliance assessment. A residual flashing problem was identified, which was referred to senior technical staff for review. As there was insufficient time to carry out a re-edit, and in view of the fact that the automatic equipment had registered the sequence as a 'borderline' case, it was decided to transmit the sequence as it stood. When ITV were notified that Ofcom had received a complaint, a further detailed technical investigation was carried out. Using different measurement techniques, this assessment revealed that the sequence had in fact exceeded the limits set out in Ofcom's Flashing Images Guidance.

ITV said that it had now instigated new compliance procedures for use when there was doubt about whether a sequence complied with the Guidance. In the rare circumstances where it faced very short lead-times to transmission, it would err on the side of caution, and would use last-minute viewer information or warnings via continuity announcements.

Decision

In view of the potential seriousness of a seizure for any viewer who is susceptible to photosensitive epilepsy, it is important that broadcasters have rigorous compliance procedures in place for dealing with flashing images. Although on this occasion the sequence did exceed the normal technical limits for flashing images, we acknowledge the unusually tight deadline for transmission, and the fact that efforts were made to address the problematic material. In view of ITV's commitment to further improve compliance procedures, we consider the matter to be resolved. We have reminded ITV of the need for extreme care in these cases. We have also emphasised the need to exercise caution when relying on automated systems for checking flashing sequences, as such systems cannot provide reliable results in all situations.

Complaint Resolved

^{*} 'ITC Guidance Note for Licensees on Flashing Images and Regular Patterns in Television':
http://www.ofcom.org.uk/tv/ifi/guidance/vrs_code_notes/flsh_imgs/?a=87101

The Day The Music Died

BBC Radio 2, 4 December 2004, 13:30

Introduction

This programme consisted of satirical reviews of music releases. Two listeners complained about a spoof item in which a singer was suggested to be a 'pre-operative transgender' person. The listeners were offended by the item, which contained references to male genitalia and shaving which they felt mocked transgender people.

Response

The BBC said that this comedy programme intended to satirise some of the well-known figures of the music industry. However the broadcaster agreed that it had misjudged the offence that the item might cause to listeners. The intended target of the humour had been the original artist, rather than any members of the transgender community. The broadcaster apologised to the complainants and undertook to highlight the issues with programme-making colleagues – particularly in the area of comedy and light entertainment. The BBC has subsequently confirmed that it had drawn the potential sensitivities in this area to the attention of producers in radio light entertainment.

Decision

The Code on Standards states that “challenging or deliberately flouting the boundaries of taste in drama and comedy is a time honoured tradition. Although these programmes have a special freedom, this does not give them unlimited licence to be cruel or to humiliate individuals or groups gratuitously”.

In our Finding on BBC1's *Breakfast* (Bulletin 5) we noted the BBC's statement that “as a result of this (a complaint about the mocking of transgender people), and other similar complaints, the general issue of the depiction of transsexual people in BBC output has been discussed at a forum for senior editors. This will help to raise awareness of such issues.”

Although we appreciate the difficulties of communicating information across the diverse genres, we are disappointed that, despite the previous forum, it was subsequently necessary for the BBC to revisit the issue with producers in radio light entertainment. We would hope that a similar issue would not arise again.

The original decision not to uphold the complaint was reviewed on appeal

Complaint Resolved

Other programmes not in breach/out of remit 1 June – 14 June

Programme	Trans Date	Channel	Category	No. of Complaints
18 Stone of Idiot	10/06/2005	Channel 4	Offence	1
2-Ten FM	06/06/2005	2 Ten FM	Offence	1
24	22/05/2005	Sky One	Offence	1
8 Out of 10 Cats	03/06/2005	Channel 4	Offence	1
9/11: The Plane that Hit the Tower	30/05/2005	Five	Religious Offence	1
Airline	30/05/2005	ITV1	Offence	1
Art Attack	14/05/2005	Disney Channel	Offence	1
Bad Girls	31/05/2005	ITV1	Offence	1
Bad Girls	07/06/2005	ITV1	Offence	1
BBC GMR	02/06/2005	BBC GMR	Offence	1
Big Brother 6	17/06/2004	Channel 4	Offence	1
Big Brother 6	20/05/2005	Channel 4	Offence	2
Big Brother 6	30/05/2005	Channel 4	Language	2
Big Brother 6	29/05/2005	Channel 4	Offence	1
Big Brother 6	31/05/2005	Channel 4	Offence	2
Big Brother 6	01/05/2005	Channel 4	Offence	1
Big Brother 6	01/06/2005	Channel 4	Offence	1
Big Brother 6	06/06/2005	Channel 4	Offence	3
Big Brother 6	07/06/2005	Channel 4	Offence	1
Big Brother 6	08/06/2005	Channel 4	Offence	2
Big Brother 6	10/06/2005	Channel 4	Offence	1
Big Brother 6	09/06/2005	Channel 4	Offence	1
Big Brother's Little Brother	01/06/2004	Channel 4	Sexual Portrayal	1
Big Brother's Little Brother	07/06/2004	Channel 4	Offence	1
Big Brother's Little Brother	02/06/2005	Channel 4	Scheduling	1
Big Brother's Little Brother	10/06/2005	Channel 4	Offence	1
Bollocks to Cancer	08/06/2005	Channel 4	Language	1
Bollocks to Cancer	09/06/2005	Channel 4	Language	1
Born and Bred	01/06/2005	BBC1	Offence	1
Breakfast - BBC R5 Live	03/06/2005	BBC R5 Live	Offence	1
Canadian Grand Prix	11/06/2005	ITV1	Offence	1
Celebrity Love Island	31/05/2005	ITV1	Offence	1
Celebrity Love Island	03/06/2005	ITV1	Offence	1
Channel 4 Ashes promotion	03/06/2005	Channel 4	Offence	1
Channel 4 News	03/06/2005	Channel 4	Religious Offence	1
Choice FM	07/01/2005	Capital FM	Language	1
Club Asia	19/05/2005	Club Asia	Language	1
Colin and Edith	07/06/2005	BBC Radio 1	Language	1
Comic Relief Does Fame Academy	09/03/2005	BBC1	Offence	1
Comic Relief Does Fame Academy	07/03/2005	BBC1	Offence	1

Coronation Street	08/04/2005	ITV1	Offence	1
Coronation Street	11/04/2005	ITV1	Offence	1
Coronation Street	13/04/2005	ITV1	Misleading	2
Coronation Street	22/04/2005	ITV1	Offence	1
Coronation Street	01/06/2005	ITV1	Offence	1
Deep Jungle	24/05/2005	ITV1	Offence	1
Derren Brown Messiah	04/01/2005	Channel 4	Religious Offence	1
Derren Brown Messiah	05/01/2005	Channel 4	Religious Offence	1
Dispatches	23/05/2005	Channel 4	Offence	1
DIY Dads	01/06/2005	Challenge TV	Offence	1
Dr Who	09/04/2005	BBC1	Scheduling	4
Dr Who	04/06/2005	BBC1	Offence	1
Dream Team	20/11/2004	Sky One	Sexual Portrayal	1
Dream Team	23/05/2005	Sky One	Offence	1
Emmerdale	25/03/2005	ITV1	Scheduling	1
Emmerdale	26/05/2005	ITV1	Language	1
Emmerdale	06/06/2005	ITV1	Violence	1
Emmerdale	24/05/2005	ITV1	Offence	1
FA Cup Final - Live	21/05/2005	BBC1	Language	1
Fat families	07/06/2005	ITV1	Offence	1
FHM	25/05/2005	FHM	Offence	1
Fifth Gear	01/04/2005	Five	Offence	1
Footballers' Wives	07/04/2005	ITV1	Offence	1
Footballers' Wives	09/05/2005	ITV2	Offence	1
Footballers' Wives	01/06/2005	ITV2	Offence	1
GMTV	27/02/2005	ITV1	Impartiality	1
GMTV	10/06/2005	ITV1	Offence	1
Grab a Grand	29/05/2005	Get Lucky TV	Offence	1
Grab a Grand	09/06/2005	Get Lucky TV	Offence	1
GWR FM	19/05/2005	GWR FM	Offence	1
Have I Got News For You	20/05/2005	BBC1	Offence	1
Have I Got News For You	28/05/2005	BBC2	Offence	1
Holiday Showdown	01/06/2005	ITV1	Offence	1
Holiday Showdown	08/06/2005	ITV1	Offence	1
Holiday Showdown	10/06/2005	ITV1	Offence	1
Hollyoaks: In Too Deep	31/05/2005	Channel 4	Offence	1
ITV News	07/06/2005	ITV1	Accuracy	1
James Stannage	31/03/2005	Key103	Religious Offence	1
James Stannage	25/05/2005	Key103	Offence	1
Jerry Springer - The Opera	08/01/2005	BBC2	Religious Offence	2
Just for Laughs	14/05/2005	BBC1	Offence	1
Kiss 100 FM Breakfast	17/05/2005	Kiss 100 FM	Language	1
Kiss 100 FM Breakfast	11/05/2005	Kiss 100 FM	Offence	1
Kiss FM	02/06/2005	Kiss 100 FM	Offence	1
LBC Programme	04/05/2005	LBC97.3	Offence	1
LBC Programme	10/05/2005	LBC97.3	Offence	2
LBC Programme	13/05/2005	LBC97.3	Offence	1

Legal Weapon	25/05/2005	BBC1	Offence	1
Life Isn't All Ha Ha Hee Hee	13/06/2005	BBC2	Offence	1
Meridian News	02/06/2005	ITV1	Impartiality	1
Metro Radio	17/05/2005	Metro FM	Offence	1
Metro Radio	08/06/2005	Metro FM	Offence	1
Mirror, Signal, Manoeuvre	08/06/2005	BBC1	Language	1
Monkey Trousers	20/05/2005	ITV1	Offence	1
Murder in Suburbia	04/06/2005	ITV1	Offence	1
Murphy's Law	09/06/2005	BBC1	Offence	1
My Family	23/05/2005	BBC1	Sexual Portrayal	1
National Geographic	26/05/2005	National Geographic	Offence	1
Neighbours	09/05/2005	BBC1	Offence	1
OBE Television	28/05/2005	OBE	Offence	1
Power Lesbians	29/05/2005	Sky One	Offence	1
Presumed Innocent	02/06/2005	Five	Offence	1
Princes in the Tower	12/05/2005	Channel 4	Language	1
Ramsay's Kitchen Nightmares	24/05/2005	Channel 4	Offence	1
Rangers TV	26/05/2005	Rangers TV	Offence	1
Richard and Judy	07/06/2005	Channel 4	Sexual Portrayal	1
Richard and Judy	09/06/2005	Channel 4	Offence	2
Ricki Lake	30/05/2005	ITV2	Offence	1
Ricky Gervais: Politics	02/06/2005	Channel 4	Language	2
Robin Hood - Prince of Thieves	30/05/2005	BBC1	Offence	1
Scott Mills	09/06/2005	BBC Radio 1	Offence	1
Sea of Souls	08/01/2005	BBC1	Offence	1
Sky News	09/01/2005	Sky News	Religious Offence	1
Sky News	26/05/2005	Sky News	Offence	1
Sky Sports	21/05/2005	Sky Sports	Offence	1
Stalking Pete Docherty	17/05/2005	Channel 4	Offence	1
Tarrant on TV	17/02/2005	ITV1	Offence	1
Tarrant on TV	06/06/2005	ITV1	Offence	1
The Advert Channel	22/02/2005	The Advert Channel	Scheduling	1
The Apprentice	03/06/2005	BBC2	Language	1
The Bill	01/06/2005	ITV1	Language	1
The Contender	06/06/2005	ITV2	Offence	4
The Contender	08/06/2005	ITV2	Offence	1
The Farm	24/05/2005	Five	Offence	1
The Hits	18/04/2005	The Hits	Language	1
The Last Detective	05/06/2005	ITV1	Misleading	1
The League of Gentlemen	17/05/2005	BBC2	Offence	1
The News Quiz	27/05/2005	BBC Radio 4	Offence	1
The Sex.Com Story	01/06/2005	Five	Sexual Portrayal	1
The Springer Show	09/06/2005	ITV1	Offence	1
The World's Most Elusive Serial Killer	30/05/2005	Five	Offence	1
The Wright Stuff	27/05/2005	Five	Offence	1

The Wright Stuff	06/06/2005	Five	Offence	1
This Morning	31/05/2005	ITV1	Offence	1
This Morning	23/02/2005	ITV1	Offence	1
Three Minute Wonder	01/03/2005	Channel 4	Religious Offence	1
Three Minute Wonder	02/03/2005	Channel 4	Religious Offence	4
Tiny Pop	07/06/2005	Tiny Pop	Offence	1
Tonight with Trevor McDonald	03/06/2005	ITV1	Accuracy	1
Top Up TV	02/06/2005	Top Up TV	Offence	1
Trisha Goddard	10/06/2005	Five	Offence	2
Tyne Tees Regional News	24/05/2005	ITV1	Impartiality	1
Weakest Link	25/05/2005	BBC2	Offence	1
WWE - Bottom Line	30/05/2005	Sky Sports 1	Language	1
WWE - Smackdown	03/06/2005	Sky Sports 3	Offence	1