

Ofcom Broadcast Bulletin

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Introduction

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

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

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

It is Ofcom policy to state the full language used on air by broadcasters who are the subject of a complaint. Some of the language used in Ofcom Broadcast Bulletins may therefore cause offence.

Standards cases

Notice of Sanction

30 GCap Media plc 'One Network' radio stations

Secret Sound, 15 January 2007 to 8 February 2007, various times

On 26 June 2008, Ofcom published its decision to impose statutory sanctions on 30 GCap Media plc 'One Network' radio stations for breaches of Rule 2.11 (competitions should be conducted fairly) and Rule 10.10 (use of premium rate numbers must comply with the Code of Practice issued by PhonepayPlus) of the Code.

Ofcom has found that these rules were breached in the conduct of a networked listener competition, *Secret Sound*, as follows:

On a number of occasions, programme makers deliberately put to air text entrants with incorrect answers in order to prevent the prize from being won too soon. As a result, those listeners who had paid to enter the competition on these occasions had no chance of winning.

The seriousness of the compliance failures was compounded by some of the actions taken by GCap after the incidents had come to light.

For the reasons set out in the adjudication, Ofcom imposed a financial penalty of **£37,000** on each of the 30 licensees, which amounted to a total financial penalty of **£1,110,000** aggregated across the 30 licensees.

In addition, each of the 30 licensees was directed to broadcast a statement of Ofcom's findings in a form to be determined by Ofcom on two specified occasions.

The full adjudication is available at:

http://www.ofcom.org.uk/tv/obb/ocsc_adjud/30GCapRadioStations.pdf

In Breach

GMTV Weather

GMTV, various dates and times in March 2008

Introduction

GMTV Weather is sponsored by Nestle cereals. A credit for the sponsor contained the claim “helping you get the three servings of wholegrain you need everyday”. A viewer challenged the accuracy of the claim.

Ofcom sought the broadcaster’s comments under Rule 9.13 of the Code. This rule requires sponsor credits to be distinct from advertising. Ofcom’s published guidance on the rule states “*Specific or detailed descriptions of a sponsor’s business or products are likely to be viewed as promotional and are therefore unacceptable. Brief statements (straplines etc) may be acceptable in credits but claims that are capable of objective substantiation, particularly those that are comparative, may breach this rule.*”

Response

In response to the complaint, GMTV provided documentation, including articles from nutritionists, to substantiate the claim.

In relation to the requirements of Rule 9.13 of the Code, GMTV responded that the statement in question was a brief description of what the sponsor’s product contained. The description was not specific or detailed and therefore not promotional. It did not compare the sponsor’s product with competitive brands and contained no invitation to purchase the product or contact the sponsor. The claim formed only a small part of an overall sponsorship campaign and featured in two out of nine credits.

GMTV said that, as a result of the complaint, it ceased transmission of the credits in question and would not air them again until the complaint was resolved.

Decision

The purpose of a programme sponsor’s credit is to inform the audience that a programme is sponsored and identify the sponsor. Credits do not count towards the time broadcasters are allowed for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not include advertising messages. This reflects the requirements of European legislation (i.e. the European Television without Frontiers Directive).

Ofcom judged the statement “helping you get the three servings of wholegrain you need everyday” was a specific promotional claim about the nutritional benefits of the sponsor’s products and one that would require substantiation. Its clear function within the credits was to advertise the sponsor’s products and its inclusion was therefore unacceptable.

On the basis that the statement should not have appeared in the credit, Ofcom did not assess the substantiation supplied to support the claim.

Ofcom welcomed GMTV's actions in removing the statement from the credits during Ofcom's investigation and, since it is in breach of the Code, advised that it should not be repeated.

Breach of Rule 9.13

STV and Westcountry Weather

STV and ITV Westcountry, various dates and times in March 2008

Introduction

STV Weather and ITV Westcountry Weather are sponsored by Flybe. A number of the sponsor's credits, which were broadcast around the sponsored item, included references to the following services offered by the sponsor:

- on-line check-in;
- reward points/frequent flyer scheme;
- VIP lounges; and
- pre-assigned seating service.

Ofcom sought the broadcaster's comments under Rule 9.13 of the Code. This rule requires sponsor credits to be distinct from advertising. Ofcom's published guidance on the rule states "*Specific or detailed descriptions of a sponsor's business or products are likely to be viewed as promotional and are therefore unacceptable...*"

Response

ITV Compliance advised that the sponsor credits were originally viewed by ITV Sponsorship only in relation to ITV Westcountry Weather. They were then offered to STV, for use on STV Weather, with the assurance that they had been accepted by ITV Sponsorship/ ITV Westcountry. ITV Compliance said that it was routine for ITV Sponsorship to refer creative proposals for sponsorship messages to the compliance team for advice. On this occasion, because of human error, no referral was made. ITV apologised for this mistake.

On reviewing the credits, ITV Compliance accepted that messages within a number of the sponsor credits were inappropriate and may have been construed as advertising messages. As a result of Ofcom's investigation, it had asked Flybe's creative agency to re-edit the credits as a matter of urgency.

Decision

The purpose of a programme sponsor's credit is to inform the audience that a programme is sponsored and identify the sponsor. Credits do not count towards the time broadcasters are allowed for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not include advertising messages. This reflects the requirements of European legislation (i.e. the European Television without Frontiers Directive).

Ofcom judged the references to the specific services offered by the sponsor (e.g. on-line check-in, pre-assigned seating) were clear advertising messages, included to promote the benefits of flying with Flybe. The inclusion of these advertising messages within the credits was unacceptable.

Ofcom welcomed ITV's acknowledgement that the credits were inappropriate and the steps taken to rectify the problem. However, Ofcom was concerned by the apparent compliance failure identified by this case and is therefore recording a breach of Rule 9.13.

Breach of Rule 9.13

Rock Rivals

ITV2, 7 March 2008, 20:00

Introduction

Rock Rivals is a drama based around the concept of a popular television talent competition. It was broadcast on ITV1 at 21:00 earlier this year and repeated on ITV2 at 20:00 each week. One viewer complained that the ITV2 repeat of the first episode of the series contained strong language, including “tosser” and “shit”, and one use of “fuck” (which was also subtitled). The viewer was offended that inappropriate language was broadcast before the 21:00 watershed. On reviewing the material, the word “fuck” was included in the subtitles but from the audio track it could not clearly be determined what was actually said. Ofcom wrote to Channel Television, who complies this programme for the ITV Network, asking it to respond under Rule 1.14 (the most offensive language must not be broadcast before the watershed).

Response

Channel Television said that *Rock Rivals* did include terms such as “tossers”, “shits” and “sodding”. The broadcaster said such language was editorially justified in a drama not intended for a child audience. However, Channel acknowledged that the subtitles did include the term “fuck”. This, it transpired, was an error made by the Subtitling Unit. The phrase was not included in the script or said by the actor on screen. The actor made a series of facial expressions and grunts, the subtitler believed one of them to be “fuck” and therefore mistakenly included the expletive in the programme’s sub-titles. The broadcaster said it greatly regretted this unfortunate slip-up.

As soon as the broadcaster became aware of the mistake from an e-mail complaint to ITV, the word was removed before the second repeat of *Rock Rivals* on ITV2 on 11 March. Also the broadcaster has now tightened its procedures to ensure there are no similar mistakes in future.

Decision

Ofcom does not normally regard the infrequent use of what are considered to be milder terms of bad language such as “tossers”, “shits” and “sodding” to be at odds with the Code when broadcast in a drama not intended for children. However, “fuck” is considered one of the most offensive forms of language. Rule 1.14 states that the most offensive language should not be broadcast before the watershed.

Ofcom acknowledges Channel’s admission that “fuck” should not have appeared in the subtitle and welcomes the compliance improvements made as a result of this incident.

Breach of Rule 1.14

The Jeremy Kyle Show

ITV1, 20 March 2008, 09:25

Introduction

Jeremy Kyle presents a popular confessional talk show where members of the public discuss their personal problems in a frank and often confrontational manner. Two viewers complained that, during a heated discussion between Jeremy Kyle and a Scotsman on the programme, the man – who spoke in a very strong accent - said “*I don't see you going out there saying [blanked] to people in the street you'd get your cunt kicked in.*”

Ofcom wrote to ITV, asking it to comment under Rule 1.14 (the most offensive language must not be broadcast before the watershed).

Response

ITV apologised for any offence caused by the broadcast of the expletive, which it said was unintentional. It commented that none of the production team, compliance officers or subtitlers detected the word, although ITV said other offensive words were duly noted and edited out. The broadcaster said it received one complaint from a Scottish viewer about the phrase and within a few hours it had edited the programme to remove it from any future repeat. On this occasion, because of the strength of the man's accent, the comment was indistinct to non-Scottish viewers and was missed.

Decision

The inclusion of the word “cunt” in a daytime talk show was clearly offensive and unacceptable as the term is considered to be one of the most offensive and abusive phrases. We acknowledge the action ITV took on receipt of a complaint from a Scottish viewer and its recognition that this language should not have been broadcast.

We accept that the inclusion of the term was unintentional, and that the comment may not have been readily understood by some non-Scottish viewers, but ITV should ensure that inappropriate and offensive language is not broadcast before the watershed.

Breach of 1.14

Sunday Night with Jason Donovan

Invicta FM and 36 other radio stations owned by GCap, 27 April 2008, 19:00

Introduction

Jason Donovan presented a Sunday evening entertainment programme which was broadcast on 37 radio stations owned by GCap. During this particular edition of the programme, Jason Donovan made the following comment in respect of the then forthcoming London Mayoral election:

“It’s time for a change. It’s definitely time for a change. Boris Johnson. I have to say it. That’s my political message...”

Ofcom received a complaint from a listener who was listening to Invicta FM and objected to Jason Donovan’s comment.

Ofcom requested comments from GCap on how this programme complied with Rule 6.1 of the Code. This states that the rules in Section Five of the Code (concerning due impartiality) apply to the coverage of elections, and in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy. Rules concerning material broadcast at the time of elections are applicable during the official “election period” to the election ballot. In the case, the London Mayoral elections were held on 1 May 2008 and the official election period to this ballot started on 18 March 2008.

Response

GCap accepted that Jason Donovan’s comments breached the Rules of the Code about due impartiality. The broadcaster stated that it was aware of the need to adhere to the Rules governing due impartiality, especially during election time and that it has procedures in place to ensure compliance to the Code. The broadcaster stated that following the comments, the programme’s producer had discussed the matter with Jason Donovan, highlighting the seriousness of his actions and that immediate remedial action would need to be taken to deal with the matter. GCap said that an on-air apology was read out on the radio stations that carried the programme which made it clear that Jason Donovan’s comments were not condoned and that it did not endorse any particular candidate in the mayoral election.

GCap stated that, although Jason Donovan was relatively new to the radio industry and that this programme was his fourth live radio broadcast with the show, it would be monitoring his programme with greater scrutiny in future to ensure compliance with the Code. The broadcaster also said that it had taken measures to ensure that a breach of this nature was not repeated.

Decision

The effect of Rule 6.1 is to ensure that broadcasters apply the “due impartiality” rules (as set out in Section 5 of the Code) at the time of elections. In particular Rule 5.11 states that “due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service...in each programme or in clearly linked and timely programmes”. Ofcom considers that elections in the UK are major matters of political controversy as defined by the Code.

Ofcom recognises the importance of the right to freedom of expression. This encompasses the broadcasters' right to transmit and the audience's right to receive creative material, information and ideas without interference but subject to restrictions proscribed by law and necessary in a democratic society. This right is enshrined in the European Convention on Human Rights. However, UK legislation requires broadcasters to preserve due impartiality on matters (and major matters) of political controversy. This requirement is considered to be particularly important at the time of elections. A presenter endorsing a political candidate at a time of an election is a clear and unambiguous breach of the due impartiality requirements in the Code.

Ofcom considers this to be a very serious breach of the Code. A presenter, albeit relatively new to his role as a radio presenter, was allowed to use his programme to promote an unchallenged political message in favour of a candidate for the 2008 London Mayoral elections. This seriousness was also compounded by the fact that the breach of the Code took place in the run-up, or "the election period", to the elections held on 1 May 2008. It is the responsibility of the licensee to ensure that all those involved in programming are familiar with and adhere to the requirements of the Code.

In this case, however, Ofcom noted that Jason Donovan's comment about Boris Johnson was isolated and was a message of general political support rather than actively encouraging listeners to vote for Boris Johnson. Ofcom also welcomed GCap's recognition that the content of this programme had clearly breached the Code and the subsequent measures taken by it, not only to strengthen and improve compliance in the future, but also the broadcast of the on-air apology. Taking into account these circumstances in particular, Ofcom decided on balance on this occasion not to take further regulatory action. Should any similar breaches of the Code occur in future, however, Ofcom will consider doing so.

Breach of Rule 6.1

Peter Popoff

Passion TV, 10 October 2007 19:00

Dr Paul Lewis

Passion TV, 10 October 2007 09:30

Introduction

Passion TV is a religious channel broadcasting to a mainly Christian audience. Peter Popoff is a televangelist who supplies and presents *Peter Popoff Ministries* programmes on the service. This programme suggested, that through his ministry people are “healed” of various illnesses. Part of that healing, Peter Popoff suggested, may be affected by the use of ‘Miracle Spring Water’. This was offered to viewers ‘free’ throughout the broadcast.

Another televangelist, Dr Paul Lewis, suggested in another programme presented on Passion TV, that his “Miracle Olive Oil Soap” had similar healing properties. We received a complaint that the claims in the programmes were, in summary, unjustified and exploitative.

Last year, on 9 May 2007, the Advertising Standards Authority (“the ASA”) published a finding in respect of advertisements for Peter Popoff’s ‘Miracle Spring Water’ and Dr Paul Lewis’ ‘Miracle Olive Oil Soap’ broadcast on Deal TV. The ASA found the advertisements in breach of the BCAP Television Advertising Standards Code on eleven separate counts¹. Among other things, the ASA found that the broadcaster had not sought independent medical advice on the safety and efficacy of the products and the advertisements exploited vulnerable viewers.

We asked Passion TV to respond in the light of the following Code Rules: 4.6 (religious programmes must not exploit the susceptibilities of the audience); and 10.3 (products and services must not be promoted within programmes).

Response

Passion TV acknowledged that there were a number of areas where it had not fully understood how to comply with the Code. As a result, following Ofcom’s intervention, it had taken a number of measures to ensure it complied with the Code in the future, for example:

- taking legal advice in respect of compliance matters;
- training compliance officers and relevant staff thoroughly on the Code’s requirements;
- creating a compliance manual for all staff and attending future Ofcom compliance workshops; and
- monitoring all potential output for compliance issues (both advertising and editorial) and seeking advice as to its suitability before broadcast.

¹ see http://www.asa.org.uk/asa/adjudications/Public/TF_ADJ_42553.htm.

Decision

The presenters talked directly to the viewers and made claims about these products. For example, at the start of the programme, Peter Popoff, told the audience that:

"I have new instructions for new prosperity and new miracles for you. This is a brand new packet of Miracle Spring Water [holding up sachet; screen shot of sachet and phone number]. It's large, and God has given me the steps of faith that you need to take to see the troubling of the waters of your situation. Get ready to see God move..."

Peter Popoff then linked to a "deliverance service" where people claimed they had experienced healing or been the recipients of a financial reward. This sequence was overlaid with text which said:

"Call now for your FREE, LARGER Miracle Spring Water!" accompanied by a UK telephone number and a scrolled message which read: *"Go to the telephone, we are standing-by to take your prayer requests."*

Meanwhile, Paul Lewis promoted his "Miracle Olive Oil Soap" in his programme, speaking directly to viewers, saying:

"...I want you to call that number on the screen [caption with phone numbers and the words: "call now for your free miracle olive oil soap"] let me rush to you my free Miracle Olive Oil Soap...your worry days are over, your struggle is over, from borrowing from Peter to pay Paul is over; today's your day for a miracle..."

The products promoted by the programmes on Passion TV were the same ones that featured in the advertisements which breached the BCAP Television Advertising Standards Code. The programme clearly said that healing could and, indeed, would take place should viewers obtain the water or soap on offer. Also the programme claimed that users' financial circumstances would improve. There was no scientific or medical evidence to support these claims made in the programme. Further, one of the presenters, Paul Lewis was referred to as "Doctor", incorrectly implying that he was qualified to give medical advice. Therefore overall, we consider this was an attempt to exploit the susceptibilities of the audience and in breach of Rule 4.6.

The programmes also heavily promoted the spring water and soap in the programmes by showing these products and providing a series of testimonies of their effectiveness from both the presenters and interviewees. Viewers who responded to these promotions were subjected to a concerted mail-shot campaign pressing, amongst other things, for some form of financial contribution or payment. The promotion of these products within programme time was therefore in breach of Rule 10.3.

Ofcom regards the breaches of the Code, in this case, as very serious. These products were promoted in such a way as to target potential susceptible and vulnerable viewers. The advertising regulator, the ASA, had made it extremely clear in its published finding how seriously it considered the promotion of these products as miracle cures and the associated claims made in the advertisement. The compliance arrangements at the licensee were also clearly inadequate to permit such products, in such a manner, to be promoted in their programmes.

Ofcom considered whether to refer these breaches for the consideration of a statutory sanction. However, it decided not to do so, taking account of all the circumstances (but principally the Licensee's previous compliance history, improvements to its compliance procedures, and bearing in mind the fact that each televangelist was featured in only one programme, albeit repeated on a number of occasions). Nevertheless, there should be no doubt that Ofcom will consider further regulatory action (including the possibility of a fine) if any further Code breaches of this nature occur again.

Breaches of Rule 4.6 and 10.3

Note to Broadcasters

Claims of benefits from, and promotion of products or services, in religious programmes

Broadcasters of religious programmes must establish *for themselves* whether any claims as to benefits provided by products supplied by ministries providing programmes to their services can be justified. Broadcasters should not rely, for example, on the evidence of testimonies within the programmes alone, but should seek to obtain sufficient and independent verification.

Broadcasters are reminded that products and services must not be promoted in programmes. There is an exception under Rules 10.3 and 10.6 for programme-related material. However, this programme-related material is narrowly defined. Rule 10.7, meanwhile, makes clear broadcasters are responsible for any programme-related material. Therefore they must consider very carefully whether it is appropriate for viewers or listeners, who have responded to a promotion for programme-related material, to be sent any other material, particularly if it is unsolicited.

Broadcasters should also consider conducting appropriate research when approached by any ministry to broadcast their religious programmes. They must satisfy themselves that broadcast of this material would not result in a breach of the Code. Ofcom expects broadcasters to be able to demonstrate that they took all reasonable steps to be able to demonstrate as appropriate that these programmes did not, for example, exploit the susceptibilities of its potential audience or were platforms for the promotion of products or services.

Fairness and Privacy Cases

Upheld

Complaint by Ms Rebecca Gauld

Katie and Peter: The Baby Diaries, ITV2, 19 July 2007

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

ITV2's series *Katie and Peter: The Baby Diaries* followed former model Katie Price (also known as Jordan) and singer Peter Andre in the lead up to and after the birth of their second child. In one episode, Katie Price discovered that her children's nanny, Ms Rebecca Gauld (referred to as "Becky" in the programme), had gone on holiday to Portugal, rather than to Wales to see her father as she had told her employers. Ms Price believed that Ms Gauld had lied to her and let her down and so decided to terminate Ms Gauld's employment. Footage was included in the programme of Ms Gauld's possessions being packed up into bin bags, of a telephone conversation during which Katie Price dismissed her and of Ms Gauld arriving at Katie Price's home to collect her belongings.

Ofcom found as follows:

- a) A serious allegation was made that Ms Gauld had lied to Ms Price about her holiday, come back to work a day late and neglected her duties. Ofcom considered that Ms Gauld was not given an appropriate opportunity to respond to this allegation.
- b) The filming and broadcast of footage of Ms Gauld's room and the broadcast of footage of her telephone number was an unwarranted infringement of her privacy.
- c) The recording and broadcast of footage of a telephone conversation with Katie Price in which Ms Gauld was dismissed from her position was also an unwarranted infringement of her privacy.
- d) The filming and broadcast of a conversation with members of Ms Price's staff and the programme makers when she returned to collect her belongings was an unwarranted infringement of her privacy.

Introduction

On 19 July 2007, ITV2 broadcast an episode of *Katie and Peter: The Baby Diaries*. The series followed former model Katie Price (also known as Jordan) and singer Peter Andre in the lead up to and after the birth of their second child. In this episode, Katie Price discovered that her children's nanny, Ms Rebecca Gauld had gone away on holiday to Portugal, rather than to Wales to see her father as she had told Katie Price. As a result, Ms Gauld would be returning from her holiday a day late. Ms Price believed that Ms Gauld had lied to her and let her down and so decided to terminate Ms Gauld's employment. The programme showed Katie Price and a member of her staff in Ms Gauld's bedroom, packing her belongings into bin bags. Whilst doing so, they found a receipt (on which Ms Gauld's telephone number was visible in the broadcast) for a holiday in the Algarve over the dates that she was supposed to be in Wales. This appeared to explain why she was late back to work and to confirm that she had lied about her plans.

Later in the programme, Katie Price was shown telephoning Ms Gauld on her return from holiday, firing her and telling her to come and collect her belongings. Ms Gauld's voice could be heard briefly on the telephone. When Ms Gauld arrived to collect her belongings, Ms Price's manager and another member of her staff went out to meet her. Ms Gauld was filmed putting her belongings into her car and was shown being told by the staff members why Katie Price was annoyed with her and why her employment had been terminated. Ms Gauld was asked by the programme makers if she had anything to say and whether or not she understood why Ms Price was angry with her. Her response was included in the programme.

Ms Gauld complained that she was treated unfairly in the programme and that her privacy was unwarrantably infringed in both the making and broadcast of the programme.

The Complaint

Ms Gauld's case

In summary, Ms Gauld complained that she was treated unfairly in that:

- a) She was not given an opportunity to respond to the remarks put to her by Ms Price's staff members and the programme makers when she collected her belongings.

In summary, Ms Gauld complained that her privacy was unwarrantably infringed in the making and broadcast of the programme in that:

- b) Her private possessions were filmed in the bedroom she used in Katie Price's house without her being informed and footage of her telephone number was shown in the programme as broadcast.
- c) The telephone conversation between her and Katie Price was broadcast without her being informed.
- d) When Ms Gauld returned to collect her belongings, the programme makers continued to film her despite her telling them to stop and despite her clearly distressed and upset state.

After submitting her complaint, Ms Gauld informed Ofcom that an Employment Tribunal had declared that she was unfairly and wrongly dismissed by Katie Price and Peter Andre and she had received compensation from them.

ITV's case

In summary ITV responded to Ms Gauld's complaint as follows:

ITV acknowledged the findings of the Employment Tribunal, but said that these did not necessarily mean that Ms Gauld had been treated unfairly in the programme.

- a) In response to the complaint that Ms Gauld was not given an opportunity to respond to remarks put to her, ITV said that the programme showed that on the evening of Ms Gauld's return from Portugal, Katie Price spoke to her on the telephone. She informed Ms Gauld that she was sacked and that she should return to collect her belongings. Ms Price also called Ms Gauld a liar. Therefore ITV said that the programme producers considered that Ms Gauld was aware of the situation she faced when she returned to the house.

ITV said that the programme showed Ms Gauld returning to the house to pick up her belongings. Two members of Ms Price's staff were shown going outside to talk to her. They explained to her why Katie Price was so angry with her, namely that due to Ms Gauld returning late, Ms Price had missed professional engagements and had been criticised publicly for doing so. Ms Price's staff members then said that she should have told them where she actually was, i.e. in Portugal and not in Wales with her father. ITV said that the series producer/director then asked Ms Gauld whether there was anything she wanted to say. She agreed that she should have told Katie Price where she was and said that she had tried to get back. ITV did not consider that this was a confrontational "doorstepping" of Ms Gauld. She was clearly given an opportunity to respond to the remarks put to her by the staff members and by the director and her responses were included in the programme.

In response to the complaint that Ms Gauld's privacy was unwarrantably infringed in the making and the broadcast of the programme, ITV responded as follows:

- b) In relation to Ms Gauld's complaint that her private possessions were filmed and shown in the programme, ITV said that Ms Gauld occupied a bedroom in a building on Katie Price and Peter Andre's property under a licence, which they maintained terminated as soon as her employment ended. There was no infringement of Ms Gauld's privacy in Ms Price simply entering her own property and being filmed there removing Ms Gauld's property. The programme showed Katie Price and a member of her staff carefully removing Ms Gauld's clothes from a wardrobe, folding them and packing them into bin liners for removal. ITV said that Ms Gauld's clothes were not themselves private, since she wore them publicly.

The staff member was then shown finding a receipt for a holiday to Portugal booked by Ms Gauld and a friend. ITV accepted that the receipt was a piece of private correspondence. The address details on the document were obscured, although Ms Gauld's mobile number was briefly visible for approximately one second. ITV said that this was simply not spotted at the time by the programme makers and that viewers would have been highly unlikely to have noticed it. ITV said that the fact that the address was obscured in the same shot confirmed the programme makers' intentions in this regard and that the inclusion of the number

was a genuine mistake. However, ITV argued that showing and discussing the receipt document did not of itself infringe Ms Gauld's privacy. ITV said that if there was any infringement of privacy, it was not significant and was warranted in the circumstances in that the receipt was a key element in the narrative of the events in this episode and was important in understanding why Katie Price and Peter Andre were so angry with Ms Gauld. It also fairly set in context Ms Gauld's later admissions on camera when she arrived to collect her belongings.

- c) With regard to Ms Gauld's complaint that her telephone conversation with Ms Price was recorded and broadcast, ITV said that the phone was not fitted with equipment to record a two way telephone conversation and there was no intention of recording Ms Gauld's side of the conversation. The intention was simply to document Katie Price making the phone call and recording what she said to Ms Gauld when informing her of her dismissal. ITV said that only a few brief words that Ms Gauld said could be faintly be heard: - "Hello", "Yes I did". These were picked up accidentally on Ms Price's radio microphone.

ITV said that Ms Gauld did not know that the team was filming Katie Price when she made the call, but given the nature of the call, it was not practicable to seek her permission to record Katie Price making it. ITV said that it did not consider that in these circumstances the filming constituted "surreptitious filming or recording" and suggested that the recording was warranted editorially as it was an important element in the unfolding events of Ms Gauld's sacking. ITV said that the recording and broadcast of Ms Price's words to Ms Gauld, which simply reflected what she said about her elsewhere in the programme, and the brief and almost inaudible responses of Ms Gauld, did not of itself unwarrantably infringe her privacy.

- d) In relation to Ms Gauld's complaint that the programme makers continued to film her despite her telling them to stop, ITV said that Ms Gauld had previously signed a release form agreeing to be filmed for the series, had been filmed previously and was used to the film crew recording day to day events at the house. The programme makers therefore believed that they were entitled to film Ms Gauld when she arrived at the house.

ITV said that Ms Gauld was understandably unhappy when she arrived, having just been summarily sacked, but as the programme showed, she was not distraught or unduly distressed. ITV said that she did initially ask the programme's director not to film her, but she then began to discuss the situation with the two members of Ms Price's staff who were present in the knowledge that the cameras were recording the discussion. As shown in the programme, Ms Gauld conceded that she should have told Katie Price where she was. Ms Gauld had appeared to be willing to discuss the position on camera. The director then asked her if she had anything to say to camera. She did initially respond that she did not like him filming her, but then went on to talk to him. ITV said that the programme makers understood from this that despite her reluctance she had effectively consented to provide brief answers to camera. These were included in the programme in order to represent Ms Gauld's position in relation to the sacking and the allegation by Ms Price that she had lied.

ITV said that in the context of the programme (and the series as a whole, for which she had given written consent to be filmed) it did not consider that Ms Gauld's privacy was infringed in the filming and broadcast of this sequence. If it was considered that her privacy was infringed by virtue of her stated reluctance to be filmed, despite her clearly responding to questions from Katie Price's staff

and the programme's director in the knowledge that she was being filmed, and giving a brief interview to camera, then ITV considered that any infringement was warranted, in that it represented to viewers her direct response in relation to her sacking.

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 and unwarranted infringement of privacy in, or in the making of, programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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.

Ms Gauld's complaint was considered by Ofcom's Executive Fairness Group. In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and a transcript, untransmitted footage and written submissions from each of the parties.

Fairness

Ofcom first considered Ms Gauld's complaint of unfair treatment in the programme.

- a) Ofcom considered Ms Gauld's complaint that she was not given an opportunity to respond to remarks put to her by Ms Price's staff members and the programme makers.

Ofcom considered whether the broadcaster's actions were consistent with its obligation to avoid unjust or unfair treatment of individuals in programmes as set out in Rule 7.1 of the Code. In particular Ofcom considered Practice 7.11, which states that if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

Ofcom noted that the Employment Tribunal had made a declaration that Ms Gauld was unfairly and wrongly dismissed by Katie Price and Peter Andre. However Ofcom's role was to consider whether she was treated unfairly in the programme as broadcast.

Ofcom noted that the footage in the programme of Ms Gauld arriving at Katie Price's house to collect her belongings included her conversation with two members of Ms Price's staff. During this conversation they told Ms Gauld that she had caused trouble to Katie Price, both in terms of child care and her professional obligations by arriving back from her holiday a day late. Ms Gauld was also accused of not telling the truth. In Ofcom's view, these were serious allegations, to which Ms Gauld was entitled to an appropriate and timely opportunity to respond.

Ofcom viewed the footage included in the programme of Ms Gauld's return to collect her belongings, which included the following exchanges in relation to these allegations:

Staff member 1: *"See the thing is had you have said I'm in Portugal and I can't get back..."*

Ms Gauld: *"Yeah I get it... I get it"*

Staff member 1: *"You know what I mean we could have just known where we were at"*

Staff member 2: *"You could've just said I'm not coming back Wednesday"*

Staff member 1: *"...because everyone said why can't you get back from Wales you know ...could have just been honest"*

Ms Gauld: *"Yes I should have"*

When the programme maker asked Ms Gauld whether there was anything she wanted to say, she responded:

Ms Gauld: *"Erm yeah ok I should have said where I was afterwards and I did try to get back though"*

Programme Maker: *"Do you understand why she's angry?"*

Ms Gauld: *"Well yeah but I did try to get back yeah"*

Ofcom also viewed untransmitted footage of Ms Gauld's conversation with Ms Price's staff members and the programme maker. Ms Gauld was filmed driving up to Ms Price's property where staff met her in order to hand over her possessions, which had been placed in bin bags for her to collect. Ofcom observed that as soon as she arrived at Ms Price's property Ms Gauld queried, first with the programme maker, and then with one of the staff members why the conversation was being filmed and asked more than once not to be filmed. The staff member said it was not her decision and the filming continued.

Ms Gauld was then questioned by the members of staff about her actions in relation to her holiday. Ofcom noted the full context of the broadcast discussion with the programme maker:

Programme maker: *"Any thing to say though Becs?"*

Ms Gauld: *"I just don't want you filming me that's all to be honest"*

Programme maker: *"Is there anything you want to say though about this if Katie is watching?"*

Ms Gauld: *"Erm yeah ok I should have said where I was afterwards and I did try to get back though"*

Programme Maker: *"Do you understand why she's angry?"*

Ms Gauld: "Well yeah but I did try to get back yeah"

At the close of the filming the following exchange took place:

Programme maker: "Becs one question, is there anything just in case you don't get to see Kate you'd like to say?"

Ms Gauld: "No."

Programme maker: "Is there anything you'd like to add to what you've heard?"

Ms Gauld: "No 'cause I don't want to be filmed alright".

In its consideration of whether Ms Gauld was given an appropriate opportunity to respond to the allegations made about her in the programme, Ofcom noted that the filming took place at a time of high tension in the immediate aftermath of Ms Gauld being dismissed and her possessions cleared. She appeared to be distressed and tearful. Ofcom noted that there had been a significant change in her circumstances, namely her dismissal, since her original consent to participate in filming for the programme. It was clear from the untransmitted footage of the conversation that, when addressed by the programme maker, Ms Gauld said clearly and audibly on several occasions that she did not wish the conversation to be filmed.

Ofcom accepted that the serious allegations referred to above were put to Ms Gauld by the staff members, and that the programme maker did give Ms Gauld an opportunity to comment on these. However in Ofcom's view this did not represent an *appropriate* opportunity given that she was caught at an emotional moment, immediately following her dismissal, when she was upset and clearly indicated at the start, during and at the close of filming that she did not consent to being filmed.

In these circumstances, Ofcom found that Ms Gauld was treated unfairly in the programme in that she was not given an appropriate and timely opportunity to respond to allegations made about her.

Privacy

Ofcom went on to consider Ms Gauld's complaint that her privacy was unwarrantably infringed in the making and the broadcast of the programme.

In Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy both in relation to the making and the broadcast of the programme, Ofcom must consider two distinct questions: First, has there been an infringement of privacy? Secondly, if so, was it warranted?

- b) In relation to infringement of privacy, Ofcom first considered Ms Gauld's complaint that her privacy was unwarrantably infringed in the making and the broadcast of the programme in that footage of her private possessions were filmed in the bedroom she used in Katie Price's house and footage of her phone number was broadcast.

In considering this complaint Ofcom took into account Practice 8.1 of the Code, which states that any infringement of privacy in programmes, or in connection with obtaining material in programmes, must be warranted. It also took into account Practice 8.5, which states that any infringement of privacy in the making of a programme should be with the person's consent. Ofcom considered Practice 8.6 which provides that if the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant footage is broadcast, unless the infringement of privacy is warranted.

Making of the programme

In considering whether the making of the programme infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances that she was filmed.

Ofcom noted that the programme was a "no holds barred" fly on the wall documentary about the lives of Katie Price and Peter Andre and that Ms Gauld had agreed to be filmed in her capacity as their employee. Ofcom also acknowledged that Ms Gauld occupied a cottage belonging to Katie Price. It also noted that Ms Gauld had signed a release form in relation to the filming of footage of her. However there was nothing in the form to suggest that her bedroom might be filmed in her absence or that Katie Price or her staff would be filmed going through her personal possessions. Ofcom considered that, at the time of the filming, Ms Gauld was not on notice that she was about to be asked to leave her employment and therefore her home. There was nothing in the circumstances of the filming that diminished Ms Gauld's expectation of privacy in relation to the room, which had in effect become her home. In Ofcom's view, in these circumstances Ms Gauld had a legitimate expectation of privacy in relation to filming in her bedroom in her absence. Furthermore, the filming of Katie Price and a member of her staff going through her clothes, papers and other personal possessions was an infringement of Ms Gauld's privacy.

Having found that Ms Gauld's privacy was infringed, Ofcom went on to consider whether that infringement was warranted. Ofcom's Code explains that where broadcasters wish to justify an infringement of privacy they should be able to demonstrate that such an infringement was warranted. For example that it was in the public interest in order to reveal crime or disclose incompetence that affects the public. In Ofcom's view the filming of Ms Gauld's private room including her personal possessions in her absence, without her knowledge or consent, was not justified by any such reasons. Nor did Ofcom accept the broadcaster's argument that it was warranted by an editorial justification. Ofcom therefore found that the infringement of her privacy in the making of the programme was not warranted.

Broadcast of the programme

In considering whether the broadcast of footage of Ms Gauld's room, including personal documentation which fleetingly revealed her telephone number, infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances in respect of the footage of her.

Ofcom noted ITV's statement that the broadcast of footage of Ms Gauld's phone number was an oversight on the part of the programme makers who obscured her other personal information on the documents shown. Ofcom considered that, for the same reasons as set out above in relation to the filming in Ms Gauld's room, she had a legitimate expectation that footage filmed in her private room

including her personal telephone number would not be broadcast. Ofcom considered that the broadcast of the footage of her room and her telephone number infringed of her privacy.

Ofcom took the view, for the same reasons as set out above in relation to the filming of the material, that the broadcast of footage of Ms Gauld's private room and personal documentation, including her personal telephone number, was not justified by for example any public interest in the material.

Ofcom therefore found that Ms Gauld's privacy was unwarrantably infringed in both the making and the broadcast of the programme in this respect.

- c) Ofcom next considered Ms Gauld's complaint that her privacy was unwarrantably infringed in the making and the broadcast in that a telephone conversation between her and Katie Price was broadcast without her being informed.

In considering this complaint Ofcom took into account Practices 8.1, 8.5 and 8.6 of the Code, as set out under decision head b) above. Ofcom also took into account Practice 8.14, which states that material gained by surreptitious filming and recording should only be broadcast when it is warranted.

Making of the programme

In considering whether the recording of the telephone conversation infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances that she was filmed.

Ofcom noted that this was a private and sensitive conversation between Ms Gauld and her employer during the course of which her employment was terminated. Although the recording was not intentionally surreptitious, Ms Gauld was not informed that the conversation was being recorded, nor was there any reason for her to assume that it was being recorded. It was therefore not open to her to withdraw from the conversation. Ofcom also noted that nothing in the release form Ms Gauld had previously signed indicated that private conversations would be recorded. In Ofcom's view, Ms Gauld had a legitimate expectation that a conversation of this nature would not be recorded without her knowledge or consent and the recording of the conversation was an infringement of her privacy.

For the reasons detailed at head b), in Ofcom's view the recording of a private and sensitive telephone conversation, without Ms Gauld's knowledge or consent, was not justified by for example any public interest in the material. Ofcom therefore found that the infringement of her privacy in the making of the programme was not warranted.

Broadcast of the programme

In considering whether the broadcast of the telephone conversation infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances in respect of the footage of her.

Ofcom noted that very little of Ms Gauld's side of the conversation was heard in the broadcast. However Ofcom took the view that Ms Gauld had a legitimate expectation that a private and serious conversation with her employer would not be broadcast without her knowledge or consent. The broadcast of the

conversation was an infringement of Ms Gauld's privacy. For the same reasons as those set out above in relation to the recording of the material, there was no justification which warranted the broadcast of the conversation.

Ofcom therefore found that Ms Gauld's privacy was unwarrantably infringed in the making and the broadcast of the programme in this respect.

- d) Ofcom considered finally Ms Gauld's complaint that her privacy was unwarrantably infringed in the making and the broadcast of the programme in that the programme makers continued to film her despite her telling them to stop and despite her clearly distressed and upset state.

In considering this complaint Ofcom took into account Practices 8.5 and 8.6 of the Code, as set out under decision head b) above. Ofcom also took into account Practice 8.7, which states that if an individual's privacy is being infringed and they ask that the filming, recording or live broadcast be stopped, the broadcaster should do so, unless it is warranted to continue.

Making of the programme

In considering whether the making of the programme infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances that her conversation with members of Katie Price's staff and the programme makers was filmed.

In Ofcom's view, consent to take part in a programme is a continuum that applies from the commencement of a contributor's participation and continues until their involvement is concluded. In assessing whether a contributor has given informed consent for their participation, Ofcom will not only look at the information that was provided to the contributor prior to the recording of the contribution, but where possible Ofcom will also consider the contribution itself.

In this case Ofcom noted that Ms Gauld had agreed to take part in the programme generally and to be filmed and took the view that she was aware of the on-going fly on the wall nature of the programme. This lowered her expectation of privacy in relation to the making of the programme. However Ofcom also noted that the footage complained of related to a conversation that took place when Ms Gauld's situation had significantly changed, that is when she had been dismissed from her position and was returning to collect her belongings. In Ofcom's view this change of circumstance heightened her expectation of privacy. Ofcom also noted that Ms Gauld did engage in conversation with both Ms Price's staff members and the programme maker. However, in Ofcom's view she was not able to withdraw easily from the conversation that was being recorded as she had to attend Ms Price's home in order to collect her belongings.

As set out under decision head a) above, Ofcom viewed untransmitted footage of the conversation and noted that it was clear from this footage that, when addressed by the programme maker, Ms Gauld said several times very clearly that she did not wish the conversation to be filmed. She was therefore not an active or willing participant in the filming of the conversation. In these circumstances, Ofcom found that Ms Gauld had a legitimate expectation of privacy in relation to the recording of the conversation and that the recording of the conversation without her consent was an infringement of her privacy.

In its consideration of whether the infringement of Ms Gauld's privacy was warranted, Ofcom again considered the factors detailed under head b) and ITV's arguments in relation to editorial justification. For the reasons given at head b) of this Decision Ofcom found that the infringement of Ms Gauld's privacy was not warranted, for example by any public interest in the recording of the material.

Broadcast of the programme

In considering whether the broadcast of the programme infringed Ms Gauld's privacy, Ofcom considered whether she had a legitimate expectation of privacy in the circumstances in respect of the broadcast of footage of the conversation. As set out above, Ofcom took the view that Ms Gauld indicated clearly that she did not wish to be filmed and was not a willing participant in the conversation. In the circumstances, Ms Gauld had a legitimate expectation of privacy in relation to the broadcast of this footage.

In Ofcom's view, the broadcast of the conversation without her consent was an infringement of Ms Gauld's privacy in the broadcast and for the reasons set out at head b) above this was not justified by for example any public interest in the broadcast of the material.

Ofcom therefore found that Ms Gauld's privacy was unwarrantably infringed in the making and the broadcast of the programme in this respect.

Accordingly Ofcom has upheld Ms Gauld's complaint of unfair treatment and unwarranted infringement of privacy in the making and broadcast of the programme and found the broadcaster to be in breach of Rules 7.1 and 8.1.

Ofcom has directed ITV to broadcast a summary of this finding.

Partly Upheld

Complaint made by Mr Lennart Hane,

Insider, TV3 (Sweden), 12 October 2006 (repeated 15 October 2006), and trailers for the programme

Summary: Ofcom has upheld parts of the complaint of unfair treatment in the programme as broadcast; upheld the complaint of unwarranted infringement of privacy in the making of the programme; and upheld part of the complaint of unwarranted infringement of privacy in the programme as broadcast.

This edition of TV3's investigative programme *Insider* looked at malpractice by lawyers in Sweden. The programme examined five cases, each featuring a different type of behaviour that the programme makers alleged was inappropriate.

TV3 sent an undercover reporter posing as a client to secretly film Mr Hane, a lawyer, in his office. Mr Hane was shown in the programme advising the 'client' about how best to contest a custody case concerning his daughter. Viewers were told that the 'client' had hit his daughter in the past and now feared that his ex-wife would report him to the authorities.

Ofcom found as follows:

The programme implied that Mr Hane had made negative comments about "immigrants, feminists and Swedish legislation". Ofcom found that the implication that Mr Hane had criticised all these groups during the surreptitiously recorded meeting was not justified.

Mr Hane complained that the programme had not included the nature of the punishment allegedly administered to the 'client's' daughter and that this had resulted in unfairness to him. Given that the programme had in fact included a description of it, Ofcom found that Mr Hane had not been treated unfairly in this respect.

The programme unfairly presented the facts relating to the occasions when Mr Hane had been reported for misconduct to the Swedish Bar Association ("the SBA".)

The wider context in which Mr Hane was shown (i.e. a programme which featured a range of solicitors whose behaviour was criticised) was not unfair. However, TV3 did not give him an appropriate and timely opportunity to respond to the specific allegations that were made about him. This was unfair.

Mr Hane's privacy was infringed in the making of the programme in that he was filmed surreptitiously. The decision to do so was not warranted.

Ofcom found that Mr Hane's privacy was not infringed in the programme as broadcast, in relation to the location of his home. Though the programme featured his office (which is within his home), the location had not been disclosed.

Lastly, Ofcom found that Mr Hane's privacy was infringed in the programme as broadcast because it included sections of the surreptitiously filmed material. In Ofcom's view, any public interest served by the broadcast of this footage was not of a sufficiently significant nature to outweigh Mr Hane's right to privacy in the circumstances in which this had been obtained.

Introduction

On 12 October 2006, TV3 (a Swedish satellite television channel licensed in the UK) broadcast an edition of *Insider*, an investigative programme. This edition of *Insider* looked at malpractice by legal practitioners in Sweden. The programme examined five cases, each featuring a different type of allegedly inappropriate behaviour on the part of a lawyer or legal firm. Included in the programme was a lawyer who sought to pay a sixteen year old girl for sex; lawyers who appeared willing to help a person to launder money; a law firm whose apparent negligence resulted in clients losing money; and a lawyer who may have drafted a will that had not been in his client's best interest.

The complainant, Mr Lennart Hane, a lawyer, appeared in the second of the featured cases. Mr Hane was filmed secretly by a reporter who posed as a 'client' seeking legal advice in contesting a custody case over his daughter. In this section of the programme the commentary stated that the 'client' had told Mr Hane that he had hit his daughter in the past and now feared that his ex-wife would report him to the authorities. Mr Hane was shown advising the 'client' not to admit to having hit his child when contesting the custody case. The commentary also indicated that during his meeting with the 'client' Mr Hane had expressed negative views "*about immigrants, feminists and Swedish legislation*".

Mr Hane complained to Ofcom that he was treated unfairly in the programme and that his privacy was unwarrantably infringed in both the making and broadcast of the programme.

The Complaint

Mr Hane's case

In summary, Mr Hane complained that he was treated unfairly in the programme as broadcast in that:

- a) The programme unfairly claimed that he had expressed negative views in general on immigrants and "various other things in society".
- b) The discussion Mr Hane had with the 'client' had centred on the implications that allegations of child abuse would have on the custody case. However, the programme failed to mention what the 'client' was accused of, namely having given his daughter "*a light box on the ears*".
- c) It was claimed in the programme that Mr Hane had been reported to the Swedish Bar Association ("the SBA") on as many as sixteen occasions in the past ten years. Given this, the programme gave the impression that it questioned how he could carry on with his career. However, the programme omitted the following facts: that thirteen of these reports had been rejected as manifestly ill-founded; that of the three which had been tried only two had resulted in criticisms from the SBA; that these criticisms dated back to 1996 and 2001, respectively; that in these cases he had been criticised for using improper language to describe the counter party; and, that because of the nature of his practice (he deals with a large number of people who are unstable or even mentally ill) he is exposed to a higher number of unfounded complaints to the SBA than his colleagues.

- d) Mr Hane was referred to as one of a number of “horror solicitors” and was not given an appropriate and timely opportunity to respond to the allegations made about him in the programme.
- e) His reputation as a serious person and a solicitor has suffered irreparable and considerable damage.

In summary, Mr Hane complained that his privacy was unwarrantably infringed in the both the making and the broadcast of the programme in that:

- f) Given the focus of the programme on money-laundering in the legal profession, it was not justified to include him in the programme or to feature his office, which is also his home, without his consent in both the programme and its trailers during the two weeks prior to broadcast.
- g) Surreptitious filming of Mr Hane giving advice to a ‘client’ was not justified by any public interest in exposing money-laundering in the Swedish legal profession, given that the programme did not allege that he was involved in money-laundering. Furthermore, the programme was not justified in getting him to express his views on the handling of particular types of criminal case (sexual violence against women and child abuse) in this manner because he had freely expressed his views in public on this subject in the past.

TV3’s case

In summary TV3 responded to Mr Hane’s fairness complaint as follows:

- a) TV3 denied that Mr Hane was shown expressing negative views in general on immigrants in the programme. However, the broadcaster asserted that he had done so during the surreptitiously filmed meeting with the ‘client’ (“the meeting”). It illustrated this by referring to the transcript of the meeting.

The broadcaster argued that secretly filming Mr Hane was in the public interest. It said that the programme showed Mr Hane, who as a lawyer is subject to the rules of the SBA and member of the Nordic Committee for Human Rights (“the NCHR”), candidly expressing his views. In particular TV3 felt it was important to “expose” Mr Hane (whom it described as an officer of the Swedish court who was eligible to provide legal advice and services to the Swedish public):

- Criticising the Swedish legal system (notably the law against corporal punishment of children, and the treatment of women in relation to cases of alleged sexual violence) because he believed that it unfairly favoured women;
- Expressing biased views on gender;
- Suggesting to his ‘client’ that if he was asked about the incident when he had punished his daughter he should deny it and say that his accuser (namely his ex-wife) was lying, i.e. that the ‘client’ should defend himself by lying, whether under oath or otherwise;
- Giving negative views on society in general; and,
- Breaking client confidentiality.

TV3 believed that the views of Mr Hane were not unfairly edited from the full interview and that its editing gave an accurate portrayal of his views which may affect the public.

- b) TV3 denied that it had omitted to mention the nature of the alleged child abuse. To illustrate this it referred to the programme transcript which included Mr Hane asking the 'client' to define the nature of the punishment in the following way: "a box on the ear, and what else?" and the 'client' responding "well, a couple of spansks on the bottom".
- c) TV3 then turned to the complaint that the programme omitted facts relating to the occasions when Mr Hane had been reported to the SBA. TV3 acknowledged that when the programme referred to the fact that Mr Hane had been reported to the SBA sixteen times it failed to make clear that thirteen of these reports were rejected as manifestly ill-founded. It accepted that of the three reports which were heard only two resulted in criticisms of Mr Hane. It also acknowledged that these criticisms related to the use of improper language to describe the opposing party and that the programme had not made clear that Mr Hane had explained that he was peculiarly subject to being reported to the SBA because of the nature of his practice. The broadcaster apologised for these omissions.
- d) In response to Mr Hane's complaint that he had been unfairly referred to as one of a number of "horror solicitors" and not given an appropriate and timely opportunity to respond, TV3 noted that the programme maker, Strix, had spoken to Mr Hane (after several attempts to contact him) the day before the broadcast. The broadcaster stated that Mr Hane was told of the subject of the programme, that surreptitious filming had taken place and that he would appear in the programme. TV3 argued that that it had given Mr Hane an opportunity to respond in the programme as broadcast and made reference to the programme transcript to support its view. It added that Mr Hane did not contest the comments that he was shown making in the programme and did not object to the programme being shown.
- e) In response to the complaint that Mr Hane's reputation had been damaged unfairly, TV3 initially indicated that it believed that Mr Hane's complaint - about his reputation as a serious person and a solicitor suffering irreparable and considerable damage - related to his view that the programme and trailers had connected him with money-laundering. However, TV3 noted that it believed that the allegation that the programme had made a link between Mr Hane and money-laundering had been dismissed by Ofcom within its Entertainment Decision.

Nonetheless, TV3 argued that it had fairly reflected the views that Mr Hane expressed during the meeting with the 'client' and that therefore any damage to his reputation had been a result of his own comments. The broadcaster reiterated its position that informing the public of Mr Hane's views was in the public interest and added that it could not take responsibility for his reputation. It also pointed out that even by his own admission in the programme Mr Hane had been vocal on many issues and published various articles. TV3 referred to three occasions when Mr Hane's views had been published as well as on occasion when he had appeared on the *Morning Sofa* programme on TV4 by way of illustration.

In summary TV3 responded to Mr Hane's complaint of unwarranted infringement of privacy in the making and the broadcast of the programme as follows:

- f) In response to the complaint that the infringement of Mr Hane's privacy through the disclosure of the location of his home was not warranted, TV3 first commented that from the outset the programme made it clear that it would focus on legal practitioners as a group. It was common practice for *Insider* to focus on a single professional group in a single episode. Second, it stated that this episode had

drawn examples from various legal advisers giving different types of advice and that it had not aimed to expose solely money-laundering in the legal profession. Third, the broadcaster noted that at no stage was Mr Hane accused of money-laundering. It argued that it was in the public interest for it to have transmitted extracts from Mr Hane's interview with the undercover reporter for the reasons stated above.

TV3 also denied that the secret filming revealed the location of Mr Hane's office or the fact that his office was located in his home.

- g) Referring to Mr Hane's complaint that the alleged infringement of his privacy had not been warranted by any public interest in exposing lawyers who were involved in money-laundering, TV3 stated that it did not understand the premise behind Mr Hane's complaint, since the programme did not accuse him of money-laundering.

The broadcaster also denied that it had indicated that the focus of the programme would be money-laundering in the legal profession.

TV3 reiterated its view that it was a matter of public interest for the footage relating to Mr Hane to be seen, particularly because it enabled the public to compare what Mr Hane said to clients in private with what he had said in public, in the past.

Mr Hane's comments in response to TV3's statement

In summary Mr Hane commented on the broadcaster's response to his fairness complaints as follows:

- a) Mr Hane denied that he had negative views on immigrants in general or that he had expressed them in the meeting. He argued that this was a very broad accusation which was not justified by his comments during the meeting. To illustrate this he noted that during the meeting he had made one reference to a family, which happened to be of foreign origin, in which he had indicated that he did not understand their attitude to a specific aspect of their custody case and made another reference to an immigrant family which was not negative. He also added that he had had a large number of immigrants as clients over the years.

Mr Hane acknowledged that during the meeting he had shared his criticism of the ban on physical punishment of children. He said he has commented on this matter for the past three decades. He believed that many child custody cases had resulted in one parent - most often the man - unfairly being denied access to his/her child because he/she had administered modest forms of corporal punishment. Mr Hane then likened this situation to many cases where men are accused of serious sexual violence. He added that a large number of his fellow SBA members agreed with his views on the failings of the Swedish legal system in these areas.

Mr Hane argued that TV3 had made erroneous statements about the SBA's Code of Conduct ("the Code of Conduct"). He said that he had offered corrections in order to enable Ofcom to assess better whether or not it was in the public interest for TV3 to have broadcast parts of his meeting with the undercover reporter (who was posing as a client).

He pointed out that a member of the SBA is not an officer of the court (a phrase used by TV3, in its first statement). Mr Hane responded to TV3's justification that it was in the public interest for it to have exposed his biased views on gender by

stating that the Code of Conduct puts no limitation on the right to question and criticise the legal system in public.

Mr Hane rejected TV3's view that it was in the public interest for it to have exposed him allegedly instructing his 'client' to lie, whether under oath or otherwise. He argued that his recommendations to the 'client' were fully in line with the Code of Conduct because a member of the SBA was not obliged to advise a client to confess to a crime he had committed or to report it to the police himself. However, Mr Hane acknowledged that during court proceedings an SBA member would not have been allowed to deny that a client had committed a crime if he knew that denial to be untrue.

Mr Hane stated that when he advised the 'client' he was not subject to any criminal charge and was not yet involved in civil court proceedings regarding custody. Mr Hane also noted that it was very rare for parties in civil proceedings related to family law to speak under oath and added that he had not recommended that the 'client' lie when under oath.

Mr Hane then considered the nature of the punishment administered to the child in this case and his detailed discussion on this subject with the 'client'. He argued that it was clear that the 'client' had claimed that he had had to use "a fairly light form of corporal punishment" on his daughter. Mr Hane explained that he had understood from the 'client' that he had administered such punishment twice a year during a period of perhaps two years and that the last time had been when the child, who was nine at the time of the broadcast, was not less than five and not more than seven years old. Mr Hane noted that in Sweden, charges for the physical punishment of children would only be brought if the punishment had been severe and led to bodily harm. In his view the punishment admitted to by the 'client' would have been considered as petty assault, the prosecution period for which had expired by the time the 'client' came to see him.

However, Mr Hane also explained that he believed that an allegation of this nature, in the context of a custody battle, would leave the 'client' open to the risk of losing not only custody of, but also all right of access to, his child. Mr Hane added that he had seen this happen in the past and that it was a problem with the Swedish legal system.

Mr Hane commented that it was in this context that he had advised his 'client' to deny that he had administered physical punishment to his daughter when he spoke to the social workers looking into the custody of the child.

TV3 had argued that it was in the public interest for the programme to have exposed Mr Hane breaking client confidentiality. In response, Mr Hane denied that he had identified other clients during the meeting and had not compromised the rules of client confidentiality and privilege. He noted that the Code of Conduct did not prevent the presentation of certain facts from other cases as long as the client in question could not be identified or damaged through the revelation of those facts.

- b) In respect of the response to the complaint regarding the lack of a description of the punishment administered to the child, Mr Hane referred back to the comments he made in relation to this subject in head a) above. He also said that the programme had omitted the following decisive factors: that the 'client' had not been charged with a crime; that the prosecution period for any crime which had occurred had expired; and, that despite this, an accusation of administering

physical punishment to his daughter would have been likely to have adversely affected his custody case.

- c) Mr Hane noted that TV3 had acknowledged that it had unfairly omitted several facts about the occasions when he had been reported to the SBA but indicated that the broadcaster's apology was not sufficient as a remedy.
- d) Mr Hane turned to TV3's response to his complaint that he had unfairly been referred to as one of a number of "horror solicitors" and was not given an appropriate and timely opportunity to respond.

Mr Hane said that a member of the SBA is not "an officer of the court" as, to a certain extent, is the case of UK solicitors.

Mr Hane said that his recommendations to the 'client' were fully in line with the Swedish Bar's Code of Conduct as it was in the best interest of the 'client'.

Mr Hane provided an English copy of the Code of Conduct for Members of the SBA. Mr Hane said that "in summary a member of the Swedish Bar is not obliged to advise a client to confess a crime he has committed, nor to report himself to the police. A member may not, in court proceedings in which he represents a client, for instance, deny that the client has committed a crime despite the fact he knows that is not true".

Mr Hane said that he foresaw a risk that the 'client' risked being deprived of his right to have access to his nine year old daughter. Mr Hane said this risk existed irrespective of how suitable, loving and caring the father would have been as a parent in all other ways. Given this background, Mr Hane said that he advised the 'client' to deny corporal punishment to the social workers involved in the custody investigation, in the first instance.

Mr Hane said that the meeting with the 'client' concerned how he should deal with a crime committed some four years ago, in which case the time for prosecution most probably had expired, rather than a consultation with a client who had been charged with a crime.

In relation to the opportunity to respond to the programme, Mr Hane said the transcript of his telephone conversation with the programme maker (supplied by TV3) showed that his participation was a *fait accompli*. Mr Hane also said that despite his asking for a copy of the broadcast during this conversation TV3 did not send him one. Mr Hane argued that from the transcript it was evident that he had not been offered an adequate opportunity to respond. He said that this was clear because he still did not understand the kind of malpractice he had been accused. Mr Hane said that despite not having had a proper opportunity to respond he was included in the trailers; fully identified in the programme; and was described as one of a number of a "horror solicitors".

- e) In response to the complaint that his reputation had been damaged unfairly, Mr Hane stated that TV3 had been correct to state that he felt that this damage was predominantly due to the fact that the programme was presented as if either its sole or primary focus was the exposure of money-laundering.

In his view the programme's intent had been to show solicitors who ought to be barred from further practice. However, he argued that nothing he had said in the meeting with the 'client' had contravened the SBA's Code of Conduct.

Mr Hane reiterated his position that his views on the ban on physical punishment of children and the consequent affects on child custody cases could have been obtained without the use of surreptitious filming.

In summary Mr Hane commented on the broadcaster's response to his privacy complaints as follows:

- f) Mr Hane said little in relation to TV3's response to his complaint that his privacy had been infringed through the disclosure of the location of his home. However he did suggest that TV3 had chosen to "punish" him for his politically incorrect opinions on the ban on the physical punishment children and its affects.
- g) Mr Hane indicated that there had been no public interest to warrant the infringement of his privacy by means of surreptitious filming because TV3 would have been able to obtain the same information by other means. Specifically, he stated that the broadcaster could have interviewed him about his personal and professional views on the Swedish ban on the physical punishment of children and its "severe implications" for custody disputes.

TV3's second statement in response to the complaint

In summary TV3 responded to Mr Hane's comments on its response to his fairness complaints as follows:

- a) In relation to the complaint that the programme had unfairly said he expressed negative views on immigrants, TV3 argued that Mr Hane gave negative views on immigrants and "various other things in society" during the meeting with the 'client'. The broadcaster said that the commentary to this effect in the programme reflected the content of the meeting.

The broadcaster indicated that the matter of whether or not Mr Hane was an officer of the court was not relevant. TV3 explained that it had not looked into the strict legal position of a member of the SBA but had assumed that in any country with a decent legal system lawyers, particularly those presenting themselves as public figures, would be expected to act according to a certain level of probity and decency.

TV3 rejected Mr Hane's view that his recommendations to the 'client' were fully in line with the SBA's Code of Conduct. It said that it believed that advising a client to lie in court and to claim that other people were lying when they were actually telling the truth would not comply with the obligation on lawyers to comply in all matters with professional ethics (Ch. 8, S.4, p.1 of the Code of Judicial Procedure). It also indicated that in its view Mr Hane's advice to the 'client' would not have complied with the Code of Conduct's requirement that a member of the SBA must not further wrongdoing (S.1, p.2 of the Code of Conduct).

The broadcaster said that, although Mr Hane had argued that the period for prosecution of the 'client' had expired, this did not mean that no crime had been committed.

The broadcaster said that in its view Mr Hane believed that it was in the best interests of the 'client' and the child in question to deny the facts. However, in its view it was for the courts or an appropriate institution to decide what was in the

child's best interests. TV3 also noted that giving a child any kind of smack was illegal in Sweden.

TV3 contested Mr Hane's claim that there was no way the undercover reporter or anyone else could have identified his former clients through the general and brief references he had made to them in the meeting. It noted that at one point in the meeting Mr Hane had referred to his brother-in-law, his wife and their three children, and that he had mentioned the age of the eldest child.

- b) In relation to the complaint that the programme had unfairly omitted a description of the punishment administered to the child, TV3 noted that the programme did not claim that a crime had been committed. It said the programme had portrayed the facts of Mr Hane's interview with the 'client'.
- c) TV3 indicated that Mr Hane should regard its apology about the omission of facts relating to the times when he had been reported to the SBA in the programme, as an adequate response.
- d) TV3 denied that Mr Hane had been selected as one of a number of "horror solicitors" because of his views on the ban on physical punishment of children. TV3 said it had not set out to punish Mr Hane for exercising his freedom of expression in declaring these views in public.

TV3 disagreed with Mr Hane's claim that his recommendations to the 'client' had been fully in line with the SBA's Code of Conduct. TV3 said that from its point of view, Mr Hane's advice did not comply with the Code of Conduct's rule that "A member must not further wrongdoing". It also believed that TV3 and the programme makers had every reason to believe that Mr Hane's advice did "not fulfil good professional ethics".

In response to Mr Hane's statement that his actions had been in the best interest of his client, TV3 said that it was for the court or the appropriate institution to decide what is in the best interest of the child.

TV3 reiterated that the programme maker had tried to contact Mr Hane on several occasions but that it had only managed to get in touch with him the day before the broadcast. It supported its view that Mr Hane had been aware of what the programme was about and that he would be included in the programme by pointing out that during this conversation, the interviewer had said to Mr Hane: "I would like to inform you that you have a part in the programme". TV3 said that it was clear from Mr Hane's response to the interviewer that he knew which of his clients had been the undercover reporter. TV3 added that in its view Mr Hane did not indicate that he did not want the programme to be shown. The broadcaster also argued that the following comment: "So why are you trying to defame the lawyers' business then?" (which was made by Mr Hane during this telephone conversation), indicated that he had understood the nature of the programme.

TV3 explained that it had sent Mr Hane a copy of the programme. However, given that he had not received this recording, the broadcaster presumed that it must have got lost in the post.

- e) In relation to the complaint about unfair damage to Mr Hane's reputation, TV3 reiterated its position that covert filming had been necessary to show how Mr Hane practiced law given his public profile and the number of complaints against him at the SBA.

The broadcaster argued that Mr Hane's reputation could not have suffered unfairly as a result of the programme. It explained that this was because his views on the ban on the physical punishment of children were already well known and because the programme had only shown the facts and included comments which were based on what Mr Hane said during the meeting. TV3 noted that Mr Hane had indicated (within his complaint and follow up statement) that the advice he gave to the 'client' was good advice. Given this, the broadcaster argued that the inclusion in the programme of Mr Hane giving that advice could not have caused irreparable and considerable damage to his reputation.

In summary TV3 responded to Mr Hane's comments on its response to his privacy complaints as follows:

- f) TV3 reiterated its belief that it was in the public interest to show how Mr Hane practiced law, given his public profile as a lawyer campaigning for the changes to legislation. It argued that therefore, if there was an infringement of Mr Hane's privacy, through the disclosure of the location of his home, it was warranted.
- g) TV3 repeated its view that the surreptitious filming of Mr Hane was justified. It argued that this was because Mr Hane had behaved unethically in advising a 'client' to lie (whether this was in court or to social services) and to claim that other people whom he believed to be telling the truth were lying. It also said that the surreptitious filming was justified because it was in the public interest for the programme to have shown how Mr Hane practiced law.

TV3 countered Mr Hane's position that the programme had not served the public interest because he had already expressed his views on the ban on the physical punishment of children in public. It explained that its intention was not to portray Mr Hane's views on this subject but to show how he practiced law. Specifically, the broadcaster noted that there had been three elements of Mr Hane's behaviour which had triggered its investigation.

These were: the fact that Mr Hane had recently written an open letter to the Minister for Justice (published in the Swedish paper *Aftonbladet*) in which he suggested that the trial system in Sweden, as it related to cases of incest and sexual assault, resulted in the jailing of many innocent men; the fact that he had appeared on the TV4 *Morning Sofa* programme to discuss the issues raised in this letter; and, the fact that he had had sixteen complaints filed against him at the SBA. While TV3 did acknowledge that thirteen of those complaints had been rejected, it argued that its interest in Mr Hane was reasonable given the total number.

TV3 reiterated its view that given that Mr Hane was a public figure who had had complaints filed against him, it was in the public interest for it to have obtained and then broadcast an indication of how he practiced law. It added that without filming Mr Hane covertly it would not have been possible to do so, nor to portray either his approach to clients facing allegations of administering physical punishment to children or the type of advice he gave.

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 and unwarranted infringements of privacy

in the making and broadcast of the programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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 recognises that (subject to the provisions of the Ofcom Broadcasting Code) broadcasters can quite properly comment and take particular viewpoints on the subjects of broadcast programmes. However, it is essential, not only to the parties directly concerned but also to listeners and viewers, that such comments should be accurate in all material respects so as not to cause unfairness. 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.

Ofcom's Executive Fairness Group considered Mr Hane's original complaint. The complainant requested a review of their Provisional Decision. The Fairness Committee, Ofcom's most senior decision making body in matters of Fairness and Privacy, then reviewed parts of the complaint described at Heads (a), (d) and (g).

In reaching its decision, Ofcom considered all the relevant material including recordings and translated transcripts of the programme as broadcast and its trailers; translated transcripts of the secretly recorded meeting between Mr Hane and the 'client', parts of which were used in the transmitted programme; and both parties' written submissions including the review request and response.

Fairness complaints

- a) Ofcom first considered the complaint that the programme had unfairly claimed that Mr Hane had expressed negative views in general on immigrants and "various other things in society" (i.e. feminists and Swedish legislation).

Ofcom had particular regard to Practice 7.6 of the Code which states that:

"when a programme is edited, contributions should be represented fairly".

Ofcom also had regard for Practice 7.9 of the Code which states that:

"Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy itself that material facts have not been presented, disregarded or omitted in any way that is unfair to an individual or organisation; and, anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute."

With regard to this head of complaint, Ofcom noted that in the programme the presenter said:

"When we meet Hane with a candid [hidden] camera, he's much more outspoken [than on his appearance on TV4's Morning Sofa programme]. It doesn't take long for him to air his opinions about immigrants, feminists and Swedish legislation".

Ofcom noted that the presenter did not use the word “negative” to describe the opinions Mr Hane expressed during the covertly recorded meeting with *Insider’s* undercover reporter. However, the nature of the programme and the fact that the presenter implied that Mr Hane would not have expressed these views had he known he was being filmed, clearly suggested that the complainant had expressed negative views about immigrants, feminists and Swedish legislation when covertly filmed, which he might not have wanted in the public domain.

In deciding whether the programme’s commentary resulted in unfairness to Mr Hane, Ofcom considered the recordings and transcripts of both the surreptitiously filmed meeting and the programme, which contained extracts from that meeting.

Ofcom observed that during the covertly filmed meeting Mr Hane had criticised the Swedish legal system; indicated that women could not be trusted in sexual relationships (and that men’s only protection was women’s ignorance of the power the law gave them); indicated his antipathy to what he perceived to be the law’s bias against men in cases relating to child custody and sexual violence against women; and, expressed his view that women manipulated this bias.

The programme included the following extracts of Mr Hane’s comments to support the line of commentary that *“It doesn’t take long for him to air his opinions about immigrants, feminists and Swedish legislation”*:

Client’: *“So what the children say doesn’t matter?”*

Mr Hane: *“No, they don’t give a crap about that, because they pretend it’s in the best interest of the child. And “best for the child” is such a woolly or elastic phrase. There are no wicked deeds that cannot be labelled “best interest of the child””.*

Mr Hane: *“I feel, that if you are going to have sex with a woman, that you’re not in a steady relationship with, you should at least come equipped with a tape recorder and two guards, to protect yourself. And you may not make it anyway! But luckily, the women don’t know the power the kind of power they have”.*

Ofcom considered that the comments Mr Hane was shown making in the programme about feminists and the legal system were a reasonable representation of some of those he made during the full untransmitted recording of the meeting. Further, Ofcom considered that given Mr Hane’s comments (as above) viewers would have been able to draw their own conclusions about him in relation to the commentary *“It doesn’t take long for him to air his opinions about... feminists and Swedish legislation”*. Ofcom also considered that the negative implication of the line of commentary in relation to *“feminists and Swedish legislation”* had been supported by Mr Hane’s own comments in both the broadcast and the untransmitted material.

However, Ofcom noted that the programme did not provide any extracts to support the inference that Mr Hane had made negative comments about immigrants.

Ofcom observed that during the covertly filmed meeting Mr Hane discussed the validity of the use of the terms racism and fascism; a child custody case involving a couple who were not Swedish nationals; and a second child custody case involving immigrants where the woman in the case had been accused of making “false allegations”:

Mr Hane: "...I was having a go at somebody over something interesting. We have so many terms of abuse. We use 'isms' like fascism, racism, but I suggest that we get rid of all these 'isms' and use bastard or asshole instead. Because it is really more correct isn't it?"

And

Mr Hane: "Well, I have helped some clients with quite a serious dispute over a child. And he has filmed the child and he wanted to send over the film because we have referred to it. But it cost 300 Swedish crowns and he said that he couldn't afford it. And I thought that it was damned strange that he is fighting to get back his child over 300 crowns. I say that welfare supports poison people. They get hooked on welfare somehow...and I spoke to a woman about her problem because she was prepared to pay the 300 crowns. I said she should damn well not do it because I could do it myself in that case. But she said that she could tell that I am a racist...Yes, but then I brought up this thing that it is better to call me a bastard..."

And

Mr Hane: "...custody cases are depressing. But when they are associated with false allegations like these they are difficult. I had one a few years ago, but it was interesting because they were both immigrants and the man had the support of the whole immigrant community against her. She went so far as to move into one of those women's shelters to increase suspicion against him. But then he got support from the eldest daughter that he hadn't beaten the mother or her. So the whole thing was sorted out but he had the upper hand due to the extra support of the immigrant community who despised her.

In Ofcom's opinion, Mr Hane's views, as expressed during the surreptitiously recorded meeting were not about a category of people (i.e. immigrants) but about particular individuals. Further, his criticisms of those individuals had not been based on their ethnicity but on the decisions they had made.

Ofcom considered that neither the extracts of Mr Hane's comments in the covertly filmed meeting which were included in the programme, nor the entirety of the surreptitiously filmed sequence, showed him making comments that justified the presenter's implication that he had expressed negative views about immigrants.

While Ofcom considered that it had not been unfair of the programme to imply that Mr Hane had made negative comments about "*feminists and Swedish legislation*" it considered that in relation to "*opinions about immigrants*", the programme's commentary was not justified.

Therefore, Ofcom found the statement "*It doesn't take long for him to air his opinions about immigrants, feminists and Swedish legislation*" taken as a whole

resulted in unfairness to Mr Hane and so has upheld this part of Mr Hane's complaint.

- b) Ofcom then considered the complaint that the programme had unfairly omitted from the programme the nature of the physical punishment which the 'client' said he had administered to his daughter.

As with head a) Ofcom took particular account of Practices 7.6 and 7.9 with regard to this head of complaint.

Ofcom noted that the nature of the corporal punishment which had allegedly been administered by the 'client' to his daughter was included in the programme. Specifically, the programme included this exchange between Mr Hane and his 'client', about the nature of the alleged punishment, which was followed a little later with some explanatory commentary:

Mr Hane: *"A box on the ear and what else?"*

'Client': *"Well a couple of spanks on the bottom".*

Commentary: *"The Insider reporter presents himself as a being a child abuser. He claims to have hit his daughter, and that the child's mother is threatening to report him".*

Ofcom considered that both the nature of the advice being sought from Mr Hane by the 'client' and the nature of the alleged corporal punishment was made clear in the programme and that Mr Hane was not treated unfairly in this respect.

Ofcom did not uphold this head of complaint.

- c) Ofcom next turned to the complaint that the programme omitted facts about the occasions when Mr Hane had been reported for misconduct to the SBA.

Ofcom took particular account of Practices 7.6 and 7.9 with regard to this head of complaint.

Commentary: *"Lennart Hane has been reported to the Bar Association 16 times within the last ten years, but is still proceeding with his career".*

In respect of this complaint Ofcom observed that within its response to Mr Hane's complaint TV3 had acknowledged that the programme had omitted to mention that:

- on thirteen of the sixteen occasions when Mr Hane had been reported to the SBA the report was "rejected as manifestly unfounded";
- of the three reports which were heard by the SBA only two had resulted in criticisms of Mr Hane; and,
- these criticisms had related to Mr Hane's use of "improper language" to describe the opposing party.

In addition, Ofcom noted that TV3 acknowledged that it had not reflected Mr Hane's claim that because of the nature of his practice he was more likely to be reported to the SBA.

Ofcom observed that TV3 had apologised for having omitted these facts from the programme although not for having failed to have given Mr Hane an appropriate and timely opportunity to respond to the specific allegation.

Nevertheless, Ofcom found that both individually and cumulatively these omissions had resulted in unfairness to Mr Hane. The background to these reports to the SBA was important in establishing the context of how serious these matters were.

The broadcaster's failure to give Mr Hane an appropriate and timely opportunity to respond to the specific allegation is dealt with at head d) below.

Ofcom has upheld this head of complaint.

- d) Ofcom considered the complaint that Mr Hane was referred to as one of a number of "horror solicitors" and was not given an appropriate and timely opportunity to respond to the allegations made about him in the programme.

With regard to this head of complaint, Ofcom took particular account of Practice 7.9 (as set out above) as well as Practice 7.11 which requires a broadcaster to give any individual about whom it alleges wrongdoing or incompetence an appropriate and timely opportunity to respond.

First, Ofcom looked at the issue of whether the portrayal of Mr Hane in the programme resulted in unfairness to him. Ofcom noted that at one point in the programme the presenter had invited the audience to "*Meet the lawyers on the outskirts of the law*" (also translated into English as "*..outskirts of the legal system*") and that the programme had referred to the group of lawyers under investigation (including Mr Hane) as "*degenerates*" and "*lawyers of terror*".

Ofcom took account of the context in which Mr Hane was shown in the programme.

Ofcom considers that it is perfectly proper for a programme or series of programmes to examine a particular profession (in this case, lawyers). However, broadcasters must be very careful to avoid unfairness to any of the individuals or organisations featured in a programme by way of association with other individuals or organisations featured in the same programme or within an associated programme. There is a responsibility upon broadcasters to avoid unfairness to an individual or organisation not only through the editing and selection of material but also through the juxtaposition of material in the programme as a whole.

In addition to Mr Hane, this programme featured:

- a lawyer who sought to pay a sixteen year old girl for sex (in Sweden the legal age of consent is fifteen but prostitution is illegal);
- two lawyers, one of whom appeared to be willing to advise a prostitute on how to launder money and the other of whom introduced his client to a contact who would do so;
- apparent negligence on the part of a multi-national law firm that resulted in clients losing money through the liquidation of a jointly-owned business based in Thailand; and,

- a lawyer who may not have given adequate protection to a client who drew up a new will favouring a man whom the same lawyer had previously defended in a criminal case. The client was diagnosed as senile one month after the will was signed and witnessed.

Ofcom weighed the treatment of the other lawyers in the programme, and the way in which all the lawyers were referred to collectively, with the nature of the advice that Mr Hane had given the 'client'. It noted that the 'client' had admitted to Mr Hane that he had given his daughter a box round the ear and a couple of spanks on the bottom.

Ofcom then observed that Mr Hane made the following comments after the 'client' spoke about the need to be prepared, in the event that he was questioned by a psychologist, (whom he said had been engaged on behalf of his ex-wife):

Mr Hane: *"Hell, yes. Deny it, until they beat you to death."*

'Client': "It's impossible to maintain what we talked about, that a parent should have the right to...?"

Mr Hane: "No. Hell, no. That won't work, because now they've come up with a new felony, called violation of peace."

Ofcom noted that Mr Hane's advice had been given to a 'client' who had explained that he could potentially lose custody of his child. Ofcom also recognised that in Sweden smacking a child is illegal and considered that this would have been understood by viewers of the programme.

Ofcom noted the complainant's argument that his advice to the 'client' (to deny to a psychologist that he had smacked his child) had been fully in line with the Swedish Bar's Code of Conduct as it was in the best interest of the 'client'. Ofcom also had regard to the broadcaster's submission that it was not for Mr Hane to decide what was in the best interest of the child, and its argument that to advise the 'client' to lie about smacking his child, Mr Hane did not uphold the Code of Conduct which stated that "A member must not further wrongdoing".

Ofcom has no remit (nor is it required) to decide whether Mr Hane's advice to the 'client' breached the SBA's Code of Conduct or Swedish Law. In deciding whether the descriptions used in the programme resulted in unfairness to Mr Hane, Ofcom however did consider information provided by both parties in relation to Swedish Law, and the SBA's Code of Conduct.

Ofcom considered that Mr Hane's actions had been at the less extreme end of the range of activities undertaken by the group of lawyers featured in the programme. However, Ofcom considered that a reasonable consequence of Mr Hane giving such advice to a client in this position (i.e. to lie about having smacked a child) was that the decision making body responsible for deciding on custody in the case might be misled and could then make a decision that was not in the child's best interest. Such a possibility clearly raised legitimate questions about whether it was appropriate for a lawyer to be giving advice like this to a client.

Taking into account all the factors detailed above, Ofcom considered that the inclusion of Mr Hane within a group of lawyers, described as they were in the programme as broadcast, was justified by the fact that Mr Hane was clearly shown

advising his client to lie about having committed an illegal act in Sweden (i.e. boxing a child around the ears and/or smacking a child).

Ofcom therefore, found no unfairness in relation to this part of the complaint.

Ofcom then turned to the second part of this head of complaint, namely whether Mr Hane was given an appropriate and timely opportunity to respond.

Ofcom considered that in view of the serious nature of the allegations made about Mr Hane in the programme, notably those about the occasions on which he had been reported to the SBA for misconduct, it had been incumbent upon the broadcaster to offer Mr Hane a proper opportunity to respond to them.

Ofcom observed that the programme maker did not contact Mr Hane about the programme until 11 October 2006 - one day before the programme was broadcast. Importantly, the trailers for the programme (both of which included a clip of Mr Hane) had already started to be broadcast the day before this conversation took place.

Ofcom observed that Mr Hane was told by the programme maker that it had “done a programme about the soliciting [sic] business that is being aired tomorrow” and that he “would have a part in the programme”.

Ofcom considered that during this conversation Mr Hane had had to rely on his memory of his meeting with the ‘client’; the impression of the programme’s likely content as conveyed to him by a friend who had seen the trailers; and what he had read in some pre-broadcast listings about the programme. In particular, Ofcom noted that in response to the question “Do you have any more comments”, which was put to Mr Hane by the programme maker, he replied “No, but I have of course a very bad memory”.

Ofcom noted that the fact that Mr Hane had been reported to the SBA sixteen times was raised in the telephone conversation between the complainant and the programme maker.

‘Strix’: “But you have gotten 16 reports against you earlier, is that not right?”

Mr Hane: “In 42 years?”

‘Strix’: “Mm.”

Mr Hane: “Is that really correct?”

‘Strix’: “Yes, according to the information we have received.”

Mr Hane: “What?”

‘Strix’: “According to the Solicitors’ Association.”

Mr Hane: “Oh, but anyone can file a report. Most are being written off.”

However, Ofcom also recognised (as above) this conversation took place on the day before the programme was broadcast and that the comment which Mr Hane

inadvertently volunteered on this topic (as opposed to a response to a clearly articulated allegation) was not reflected in the programme.

In Ofcom's view, the programme makers left too short a period between contacting Mr Hane about the programme and its transmission; gave Mr Hane inadequate information about its nature and purpose which meant he was not able to provide a meaningful response; and failed to set out clearly the allegations which were being made about him.

Ofcom found that the conversation detailed above did not constitute an appropriate or timely opportunity for Mr Hane to respond to the allegations which were made about him. The programme therefore had resulted in unfairness to him.

Ofcom upheld this complaint only in so far as it related to opportunity to respond.

- e) Ofcom considered that Mr Hane's complaint that as a result of the broadcast his reputation as a serious person and a solicitor had suffered irreparable and considerable damage related to the complaints of unfairness at heads c) and d), which had been upheld and upheld in part, respectively.

Please see the decisions above for details on these findings.

Privacy complaints

Ofcom decided that Mr Hane's privacy complaints in relation to the making of the programme should be considered first (at head f)) and that his privacy complaints in relation to the programme as broadcast should be considered second (at head g)).

- f) With regard to the complaints of unwarranted infringement of privacy in the making of the programme, Ofcom first considered the complaint about the disclosure of the location of Mr Hane's home. Ofcom considered that this complaint related solely to the broadcast of the programme. Therefore, the decision regarding this complaint is dealt with under head g) below.

Ofcom then considered Mr Hane's privacy complaint in relation to surreptitious filming. Ofcom took particular account of Practice 8.13 which states that:

"surreptitious filming or recording should only be used where it is warranted. Normally, it will only be warranted if: there is prima facie evidence of a story in the public interest; and there are reasonable grounds to suspect that further material evidence could be obtained; and it is necessary to the credibility and authenticity of the programme".

In relation to this complaint, Ofcom first considered whether Mr Hane had a legitimate expectation of privacy in relation to the use of surreptitious filming in the making of the programme. Ofcom recognised that Mr Hane's expectation of privacy was lowered by the fact that filming took place in his office, which is accessed by members of the public. However, it also recognised that Mr Hane's expectation of privacy was heightened because of the expectation of confidentiality between a client and his or her lawyer; because he invited his clients to pre-arranged meetings, rather than having them walk in off the street; and because actions which took place in his office were filmed surreptitiously. Therefore, Ofcom considered that Mr Hane had a legitimate expectation that his

privacy would not be infringed by the surreptitious filming of actions which took place in his office.

Given these factors Ofcom considered that his privacy had been infringed.

Ofcom then turned to consider whether the infringement of Mr Hane's privacy in the making of the programme by virtue of surreptitious filming was warranted.

It considered the factors which together might have justified surreptitious filming during the making of a programme.

Ofcom noted that TV3 had outlined its view that it had been in the public interest for it to expose Mr Hane expressing his views, as he did in the meeting with the undercover reporter, because he was a public figure who wanted to change legislation and because many complaints against him had been filed at the SBA. However, Ofcom recognised that it had found that TV3's portrayal of the facts regarding the occasions on which Mr Hane had been reported to the SBA was unfair. Ofcom also observed that Mr Hane had expressed his views on corporal punishment and child custody in public before and that therefore there was no reason to film him covertly in order to gain material in which he expressed such views.

Ofcom considered that TV3 had not presented evidence that at this stage (i.e. prior to filming) it knew that Mr Hane had either committed malpractice or contravened acceptable standards in the context of his profession. It also considered that TV3 had not shown that it had reasonable grounds to suspect that surreptitious filming of Mr Hane would provide material in the public interest.

Taking these factors together Ofcom found that with regard to the making of the programme the infringement of Mr Hane's privacy due to surreptitious filming was not warranted.

Ofcom upheld this head of complaint.

- g) With regard to the complaints of unwarranted infringement of privacy in the programme as broadcast, Ofcom first considered the complaint about the disclosure of the location of Mr Hane's home. Ofcom took particular account of Practice 8.2 which states that "information which discloses the location of a person's home or family should not be revealed without permission, unless it is warranted". Ofcom also took particular account of Practice 8.14 which states that

"material gained by surreptitious filming and recording should only be broadcast when it is warranted".

Ofcom first considered whether Mr Hane had a legitimate expectation of privacy in relation to the disclosure of his home address in the programme as broadcast. Ofcom recognised that Mr Hane's expectation of privacy was lowered by the fact that filming took place in his office which is accessed by members of the public. However, it also recognised that Mr Hane's expectation of privacy was heightened because of the expectation of confidentiality between a client and his or her lawyer; because he invited his clients to pre-arranged meetings, rather than having them walk in off the street; and because Mr Hane's office is located in his home. Therefore, Ofcom considered that Mr Hane had a legitimate expectation that his privacy would not be infringed by the disclosure of the location of his

home as a result of the disclosure of the location of his office, which is situated therein, in the programme as broadcast.

However, the location of Mr Hane's office, and therefore of his home, was not disclosed during the broadcast of the programme. Ofcom noted that the programme indicated the area of Stockholm in which Mr Hane's office was located but did not include his address. In addition, it considered that the shots of the building in which Mr Hane's home was located and its immediate surroundings were sufficiently obscure to prevent identification of the neighbourhood by anyone unfamiliar with the area.

Therefore, Ofcom concluded that Mr Hane's privacy in relation to the disclosure of his home was not infringed in the broadcast of the programme. Given that Ofcom found that Mr Hane's privacy was not infringed through the disclosure of the location of his home in the programme as broadcast it did not go on to consider the question of whether any infringement was warranted.

Ofcom next turned to the complaint that Mr Hane's privacy had been unwarrantably infringed in the programme as broadcast through the inclusion of surreptitiously filmed footage. As above, it first considered whether Mr Hane had a legitimate expectation of privacy in these circumstances.

Ofcom recognised that Mr Hane's expectation of privacy was lowered by the fact that filming took place in his office which is accessed by members of the public. However, it also recognised that Mr Hane's expectation of privacy was heightened because of the expectation of confidentiality between a client and his or her lawyer; because he invited his clients to pre-arranged meetings, rather than having them walk in off the street; and because the programme included footage of a private meeting which was filmed surreptitiously. Therefore, Ofcom considered that Mr Hane had a legitimate expectation of privacy in this context.

Given that surreptitiously filmed footage of the meeting between Mr Hane and his 'client' was included in the programme, Ofcom considered that his privacy had been infringed in the broadcast.

Ofcom turned to consider whether the infringement of Mr Hane's privacy in the broadcast of the programme by virtue of surreptitious filming was warranted. The Code indicates that the word "warranted" in the context of justifying an infringement of privacy has a particular meaning. It means that a broadcaster must be able to demonstrate why the infringement was justified and, if the justification put forward is in the public interest, why in the particular circumstances of the case, the public interest outweighed the complainant's right to privacy. As noted above, it was Ofcom's view that it had not been warranted for TV3 to have infringed Mr Hane's privacy by filming him surreptitiously because the broadcaster had not presented convincing evidence that before it filmed it had prima facie evidence of a story in the public interest; and reasonable grounds to suspect that further material evidence could be obtained; and that it was necessary to the credibility and authenticity of the programme.

However, Ofcom observed that in its first round submission TV3 stated that it believed it had been important for it to expose several aspects of Mr Hane's behaviour that during the surreptitiously filmed meeting. These were:

- Mr Hane criticising the Swedish legal system (notably the law against corporal punishment (of children) and the treatment of women in relation to cases of

alleged sexual violence, and Mr Hane's belief that the system unfairly favoured women;

- Mr Hane expressing "biased views on gender";
- Mr Hane suggesting to his 'client' that if he was asked about the incident when he gave his daughter "a box on the ear" he should deny it and say that his "accuser (namely his ex-wife) was lying", i.e. that the 'client' should defend himself by lying, whether under oath or otherwise;
- Mr Hane giving negative views on society in general; and
- Mr Hane breaking client confidentiality.

Ofcom considered the elements of Mr Hane's behaviour and comments which TV3 believed it was in the public interest to expose. In Ofcom's view, while Mr Hane did use several of his old legal cases as examples during the surreptitiously filmed meeting (only one of which was included in the programme) he did not break his clients' confidentiality.

Ofcom observed that Mr Hane had previously expressed views critical of the Swedish legal system (particularly in relation to corporal punishment of children and its treatment of men in child custody cases) in public. Ofcom also noted that some of Mr Hane's comments on these subjects in the untransmitted material had been expressed in very strong terms and that his criticisms had been more wide ranging and trenchant than those he had expressed in the other public comments supplied for Ofcom's consideration (e.g. his views on women as expressed during his meeting with the 'client').

Ofcom also noted that the programme had shown Mr Hane telling his 'client', to deny that he had administered corporal punishment to his daughter because in his view it would be likely to damage the 'client's' position in a custody battle. In Ofcom's view it is likely that a reasonable viewer would have been concerned that a solicitor had given such advice to a client and it could be reasonably argued that there was some public interest served by broadcast of the footage.

To determine whether the broadcast of the footage was warranted, Ofcom was required to weigh up the rights of the broadcaster to freely express information that is in the public interest, and Mr Hane's own right to privacy.

As noted above, Ofcom found the way in which the footage of Mr Hane had been obtained unwarrantably infringed his privacy. In Ofcom's view, given that the footage had been obtained by inappropriate means, in order for the broadcast of the footage to be warranted, the public interest served by broadcast of the footage would need to be of a particularly significant nature to outweigh Mr Hane's right to privacy.

Taking into account all the factors outlined above, it is Ofcom's view that the public interest served by broadcasting footage of Mr Hane's meeting with the 'client', was not of a sufficiently significant nature to outweigh Mr Hane's right to privacy in circumstances where the footage had been obtained on insufficient grounds. In the circumstances, Ofcom found that the broadcast of surreptitiously recorded footage, unwarrantably infringed the complainant's privacy.

In respect of the first part of this head of complaint Ofcom found that Mr Hane's privacy had not been infringed as the location of his home had not been disclosed in the programme. In respect of the second part of this complaint Ofcom found

that Mr Hane's privacy was unwarrantably infringed in the programme as broadcast.

Therefore, this head of complaint was upheld in part.

Accordingly, Ofcom has upheld parts of the complaint of unfair treatment in the programme as broadcast, has upheld the complaint of unwarranted infringement of privacy in the making of the programme and has upheld part of the complaint of unwarranted infringement of privacy in the programme as broadcast.

Ofcom has directed Viasat (the licensee holder responsible for TV3) to broadcast a summary of this finding.

Other Programmes Not in Breach/Resolved

Programme	Trans Date	Channel	Category	No of Complaints
8 Out of 10 Cats	13/06/2008	Channel 4	Generally Accepted Standards	3
Andy Goldstein's Eurostars	08/06/2008	talkSPORT	Inaccuracy/Misleading	1
BBC News	19/06/2008	BBC1	Generally Accepted Standards	1
BBC News	18/06/2008	BBC1	Generally Accepted Standards	1
BBC News	23/06/2008	BBC News 24	Due Impartiality/Bias	1
BBC News	11/06/2008	BBC1	Crime (incite/encourage)	1
BBC News	22/06/2008	BBC1	Due Impartiality/Bias	1
Big Brother's Little Brother	19/06/2008	E4	Generally Accepted Standards	1
Bands Competition	-	Ocean FM	Competitions	2
Big Brother 9	23/06/2008	Channel 4	Generally Accepted Standards	3
Big Brother 9	19/06/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	23/06/2008	Channel 4	Sex/Nudity	1
Big Brother 9	08/06/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	11/06/2008	Channel 4	Religious Offence	3
Big Brother 9	13/06/2008	Channel 4	Offensive Language	1
Big Brother 9	05/06/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	18/06/2008	Channel 4	Use of Premium Rate Numbers	8
Big Brother's Big Mouth	19/06/2008	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	13/06/2008	E4	Sex/Nudity	5
Bingo Night Live	11/06/2008	ITV1	Competitions	1
Blackout Crew - "BBBounce"	09/06/2008	Chart Show TV	Generally Accepted Standards	1
Book at Bedtime: Helpless	06/06/2008	BBC Radio 4	Generally Accepted Standards	1
Britain's Lost World	19/06/2008	BBC1	Generally Accepted Standards	1
Britain's Missing Top Model (trailer)	17/06/2008	BBC2	Generally Accepted Standards	1
Britz	14/06/2008	More4	Crime (incite/encourage)	1
Brothers and Sisters in Love	12/06/2008	ITV1	Generally Accepted Standards	2
Casualty	14/06/2008	BBC1	Generally Accepted Standards	1
Chalanachithram.com	02/06/2008	Mana Teluga	Generally Accepted Standards	1
Chalanachithram.com	29/05/2008	Mana Teluga	Offensive Language	1
Channel 4 News	11/06/2008	Channel 4	Generally Accepted Standards	1

Channel 4 News	26/05/2008	Channel 4	Generally Accepted Standards	1
Channel 4 News	06/06/2008	Channel 4	Due Impartiality/Bias	1
Chris Moyles Show	26/06/2008	BBC Radio 1	Use of Premium Rate Numbers	1
Christian & Loz	16/06/2008	Kerrang Radio	Religious Offence	1
Comedy Showcase	21/05/2008	E4	Generally Accepted Standards	1
Commercial Breakdown with Jimmy Carr	15/06/2005	BBC1	Generally Accepted Standards	3
Cops With Cameras	24/06/2008	ITV1	Generally Accepted Standards	1
Coronation Street	23/06/2008	ITV1	Generally Accepted Standards	1
Coronation Street	29/02/2008	ITV1	Generally Accepted Standards	6
Criminal Minds	16/06/2008	Living TV	Generally Accepted Standards	1
Derren Brown: Something Wicked This Way Comes	16/06/2008	Channel 4	Dangerous Behaviour	1
Derren Brown: Trick of the Mind	29/05/2008	Channel 4	Generally Accepted Standards	1
Derren Brown: Trick or Treat	06/06/2008	Channel 4	Generally Accepted Standards	13
Dickens' Secret Lover (trailer)	15/06/2008	Channel 4	Violence	3
Dickens' Secret Lover (trailer)	21/06/2008	Channel 4	Sex/Nudity	1
Disarming Britain (trailer)	10/06/2008	Channel 4	Violence	5
Dispatches: In God's Name	19/05/2008	Channel 4	Religious Offence	1
Dispatches: Warlords Next Door?	26/05/2008	Channel 4	Crime (incite/encourage)	1
Domino's sponsorship / Britain's Got Talent	28/05/2008	ITV1	Flashing images	1
Drivetime	02/06/2008	LBC 97.3 FM	Generally Accepted Standards	1
Eamon Holmes	16/02/2008	BBC Radio 5 Live	Crime (incite/encourage)	4
EastEnders	18/06/2008	BBC1	Violence	1
EastEnders	23/06/2008	BBC1	Generally Accepted Standards	1
EastEnders	19/06/2008	BBC1	U18's in Programmes	1
EastEnders	19/06/2008	BBC1	Generally Accepted Standards	2
EastEnders	21/06/2008	BBC1	Generally Accepted Standards	1
EastEnders	18/06/2008	BBC1	Violence	2
EastEnders (trailer)	18/06/2008	BBC1	Violence	1
Emmerdale	16/06/2008	ITV1	Animal Welfare	1
Euro 2008 Live	19/06/2008	ITV1	Due Impartiality/Bias	2
Euro 2008 Live	19/06/2008	ITV1	Generally Accepted Standards	1
Euro 2008 Live		ITV1	Inaccuracy/Misleading	1
Euro 2008 Live, Sweden v Spain	14/06/2008	ITV1	Sex/Nudity	1

Euro 2008 Live, Turkey v Czech Republic	15/06/2008	ITV1	Generally Accepted Standards	1
F1: Canadian Grand Prix Live	08/06/2008	ITV1	Generally Accepted Standards	1
F1: French Grand Prix Live	22/06/2008	ITV1	Due Impartiality/Bias	2
Five News	16/06/2008	Five	Violence	1
Fright Night	30/05/2008	Kerrang Radio	Competitions	1
Futurama	05/06/2008	Sky Three	Offensive Language	1
GMTV	14/05/2008	ITV1	Generally Accepted Standards	2
GMTV	20/06/2008	ITV1	Generally Accepted Standards	1
GMTV	24/06/2008	ITV1	Generally Accepted Standards	1
GMTV	20/06/2008	ITV1	Sex/Nudity	3
Gladiators	22/06/2008	Sky One	Violence	1
Golden Balls	20/06/2008	ITV1	Crime (incite/encourage)	5
Golden Balls		ITV1	Competitions	1
Gordon Ramsay's F Word	24/06/2008	Channel 4	Generally Accepted Standards	1
Gordon Ramsay's F Word	17/06/2008	Channel 4	Offensive Language	1
Gordon Ramsay's F Word	17/06/2008	Channel 4	Animal Welfare	1
Gordon Ramsay's F Word	10/06/2008	Channel 4	Animal Welfare	1
Gordon Ramsay's F Word (trailer)	17/06/2008	Channel 4	Generally Accepted Standards	1
Gothika (trailer)	16/06/2008	Five	Generally Accepted Standards	1
Greek	05/06/2008	BBC Three	Offensive Language	1
Happy Mondays: The Odd Half-Hour	26/05/2008	BBC Radio 4	Religious Offence	1
Hollyoaks	26/06/2008	Channel 4	Sex/Nudity	1
Horrid Henry	13/06/2008	CITV	Crime (incite/encourage)	1
How TV Changed Britain	22/06/2008	Channel 4	Generally Accepted Standards	1
ITV News	29/04/2008	ITV1	Due Impartiality/Bias	1
Islam Ahmadiyyat	26/05/2008	MTA/Muslim TV	Religious Offence	1
Jane Eyre	05/06/2008	UKTV Drama	Sex/Nudity	1
Jeyes sponsorship of The Bill	12/06/2008	ITV1	Generally Accepted Standards	1
Jon Gaunt	17/06/2008	talkSPORT	Generally Accepted Standards	1
Jon Gaunt	18/06/2008	talkSPORT	Generally Accepted Standards	3
Katie & Peter: The Next Chapter	10/06/2008	ITV2	Generally Accepted Standards	1
Kia Motors sponsorship of CSI	06/05/2008	Five	Other	1
Kia Motors sponsorship of CSI/Law & Order		Five	Crime (incite/encourage)	1
Law & Order	28/03/2008	Five	Sponsorship	1
Living with the Dead	03/06/2008	Living	Exorcism/Occult/Paranormal	1
Midsomer Murders	17/06/2008	ITV1	Violence	1
Most Wanted (trailer)	20/06/2008	Virgin Radio	Religious Offence	1
My Super Sweet 16	12/06/2008	MTV	Offensive Language	1

Mystery of the Mummies	10/06/2008	Five	Generally Accepted Standards	1
News	11/06/2008	BBC Radio 2	Generally Accepted Standards	1
News at Ten	26/06/2008	ITV1	Other	1
News at Ten	11/06/2008	ITV1	Inaccuracy/Misleading	1
News at Ten (trailer)	16/06/2008	ITV1	Other	1
Nip/Tuck (trailer)	17/06/2008	FX	Sex/Nudity	1
On the Ball: Story of Sports Commentary	21/06/2008	BBC1	Due Impartiality/Bias	1
Playr	15/06/2008	Bravo	Violence	1
Red Eye	16/04/2008	Fox News	Other	1
Richard & Judy	23/06/2008	Channel 4	Offensive Language	1
Richard & Judy	11/02/2008	Channel 4	Animal Welfare	2
Richard & Judy	18/06/2008	Channel 4	Generally Accepted Standards	3
Robin and Marian	26/05/2008	Channel 4	Violence	1
Royal Ascot	18/06/2008	BBC2	Generally Accepted Standards	1
Rude Tube	23/06/2008	Channel 4	Animal Welfare	1
Rude Tube	23/06/2008	Channel 4	Generally Accepted Standards	2
Saturday Afternoon	31/05/2008	Rother FM	Sex/Nudity	1
Scallywagga	08/06/2008	BBC Three	Generally Accepted Standards	3
Seed of Chucky	19/06/2008	ITV4	Generally Accepted Standards	1
Sexcetera	11/01/2008	Living 2	Sex/Nudity	1
Shipwrecked 2008: The Third Island	22/06/2008	Channel 4	Animal Welfare	3
Sky News	16/06/2008	Sky News	Violence	3
Spongebob Squarepants	27/12/2007	Nick Toons	Dangerous Behaviour	1
Spongebob Squarepants	30/04/2008	Nicktoons	Crime (incite/encourage)	1
Sportxxx Live Babes	06/06/2008	SportxxxBabes	Inaccuracy/Misleading	1
Steve Powell Morning Show	26/02/2008	Valleys Radio	Competitions	1
Sunday Sequence	08/06/2008	BBC Radio Ulster	Generally Accepted Standards	3
Sunrise With Eamonn Holmes	10/06/2008	Sky News	Violence	1
Team America: World Police	07/06/2008	Channel 4	Generally Accepted Standards	1
The Boston Strangler: The True Story	25/06/2008	Five	Generally Accepted Standards	1
The Comedy Hour: Hot Gossip	17/05/2008	BBC Radio 2	Generally Accepted Standards	2
The Gerard Conway Breakfast Show	20/06/2008	Hayes FM	Offensive Language	1
The Hotel Inspector Revisits	18/06/2008	Five	Inaccuracy/Misleading	1
The Incredibly Early Breakfast Show	05/06/2008	talkSPORT	Offensive Language	1
The Inspector Linley Mysteries	01/06/2008	BBC1	Offensive Language	1

The Jeremy Kyle Show	19/06/2008	ITV1	Generally Accepted Standards	1
The Jeremy Kyle Show	13/06/2008	ITV1	Offensive Language	1
The Montel Williams Show	09/06/2008	ITV2	Violence	1
The Real Hustle	12/06/2008	BBC3	Crime (incite/encourage)	1
The Revenge Files of Alistair Fury	11/06/2008	CBBC	Violence	1
The Simpsons	20/06/2008	Channel 4	Generally Accepted Standards	1
The Simpsons	07/06/2008	Sky One	Offensive Language	1
The Summer Exhibition:	12/06/2008	BBC2	Generally Accepted Standards	1
Culture Show Special				
The Sunday Night Project	15/06/2008	Channel 4	Generally Accepted Standards	1
The Sunday Night Project	19/06/2008	Channel 4	Generally Accepted Standards	1
The Sunday Night Project (trailer)	11/06/2008	Channel 4	Generally Accepted Standards	1
The Wright Stuff	16/06/2008	Five	Religious Offence	1
The X-Files	27/05/2008	Virgin 1	Scheduling	1
This Morning	13/06/2008	ITV1	Competitions	1
This Morning		ITV1	Competitions	1
This Morning	11/06/2008	ITV1	Competitions	1
This Week	12/06/2008	BBC1	Generally Accepted Standards	4
Top Gear	22/06/2008	BBC2	Crime (incite/encourage)	1
Top Gear	22/06/2008	BBC2	Religious Offence	4
Tre Azam	01/06/2008	LBC 97.3 FM	Generally Accepted Standards	3
Unreported World: Egypt's Rubbish People	26/05/2008	Channel 4	Inaccuracy/Misleading	1
Virgin sponsorship of Big Brother		Channel 4	Generally Accepted Standards	11
Weakest Link	18/06/2008	BBC1	Generally Accepted Standards	3
Wimbledon 2008	24/06/2008	BBC1	Generally Accepted Standards	1
Yell sponsorship of Warriors	21/06/2008	More4	Generally Accepted Standards	1