

Ofcom broadcast bulletin

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Introduction

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

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

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

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

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

Standards cases

In Breach

Chris Moyles

BBC Radio 1, 17 January, 14 and 20 February 2006, various times

Introduction

17 January 2006, approx 08:42

A listener objected to an item in which the presenter discussed people who urinated in the shower. He considered that the presenter's reference to women who did this as "dirty whores" was unacceptable at this time of the morning.

14 February 2006 approx 08:21

A listener objected to a guest's use of the words "piss" and "twat" during an interview.

20 February 2006 approx 09:52

Four complainants objected to the use of the word "fucking" by the presenter during a conversation with a listener who had called in. The presenter was heard to say: "You've got some kids from some fucking..." He immediately realised his mistake and made a number of apologies for his language.

We asked the BBC to comment in relation to the following Ofcom Broadcasting Code Rules:

1.3 Children must...be protected by appropriate scheduling from material that is unsuitable for them.

1.5 Radio broadcasters must have particular regard to times when children are particularly likely to be listening.

1.14 The most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening.

2.3 In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence.

Response

The BBC assured us that since these programmes were broadcast, new procedures have been introduced by Radio 1. In future, presenters who accidentally swore or used other offensive language on air would be subject to disciplinary measures. Should this happen twice within twelve months, the presenter would suffer a financial penalty. Programme teams had also been reminded of the existing guidance on how to deal with offensive language from contributors, which included the possibility of persistent offenders being taken off air.

The BBC said that the Controller of Radio 1 has raised the issue of language with this presenter, who had given an assurance that his use of language would be more carefully managed. The Controller would continue, as part of his wider communication with presenters and staff, to emphasise the need to maintain a careful balance between creating an entertaining and authentic service for young listeners and using language that might cause harm and offence to others.

In specific reference to two of the three programmes in question, the BBC said:

14 February 2006

The BBC pointed out that the presenter had rebuked the guest for his language.

20 February 2006

The BBC wished to apologise for the offence caused by the language. It was made clear to the presenter and the executive producer immediately after the programme that such language was not acceptable. The presenter was himself upset and angry that he had made such a slip.

Decision

17 January 2006

The presenter invited female listeners to text in and say whether they urinated in the shower. A large number of texts were received and the presenter said: "Thank you very much ladies, I shouldn't really say ladies – you all pee in the shower, you dirty whores.". Although its use was clearly meant to be light-hearted, this is a word which research suggests is found offensive, particularly by women. Its use, while intended to be humorous, was inappropriate for a breakfast programme that attracts a child audience and in breach of Rule 1.5.

14 February 2006

The use of the words "piss" and "twat" was not altogether suitable in this context, when children were particularly likely to be listening. However, we acknowledge that the presenter had asked the guest not to swear. We also welcome the reminder given to production teams about how to deal with language from contributors. We consider the matter resolved.

20 February 2006

While the use of the word "fucking" was clearly a slip of the tongue and was followed by a number of apologies, it was nevertheless unacceptable, given the context and that audience figures suggest, as it was still half-term for some schools, 46000 children were still listening to the programme from 09:30-10:00. This was in breach of Rule 1.14.

Breach of 1.5, resolved and breach of 1.14 (respectively)

Scott Mills

BBC Radio 1, 2 February 2006, approx 16:48

Introduction

A listener complained about a 'wind-up' call that was made by the co-presenter for the stated purpose of gaining 'revenge' on behalf of a listener. On this occasion a listener had nominated his partner for a 'revenge' call after she mistakenly threw away his football tickets. The co-presenter rang the woman at home and pretended to be from an after-school club that her son was due to attend. He then outlined what he said were the "rules of the club" which included: "Rule 1: I don't take any s***" and "Rule 2: Shut the f*** up" and referred to the woman's son as a little s***. As the exchange continued, the co-presenter called the woman an idiot and she became increasingly angry and upset. The co-presenter finally revealed his identity and explained that the woman had been 'set up'.

The complainant objected to the call on the following grounds:

- the co-presenter frequently swore during the call, which was inappropriate for this time of day even though this was bleeped for broadcast;
- the co-presenter's manner was hectoring and aggressive;
- it was inappropriate for the co-presenter to pretend that he was calling from an after-school club and make offensive remarks when it was clear that a child was in the room.

Response

The BBC said that a senior manager responsible for the show heard the item and immediately rang the studio to make clear to the team that it was unacceptable. As a result of this incident, the broadcaster had re-evaluated what was acceptable for Radio 1 to transmit at this time of day. While on-air 'pranks' would continue to be a feature of the show, it had been made clear to all concerned that they will not in future include large amounts of strong language, even if bleeped, and that this particular call had crossed the line.

The BBC also accepted that it was not appropriate to treat a member of the public in this way and wished to apologise for any offence the item caused.

Decision

We asked the broadcaster to comment on the item with reference to the following rules of Ofcom's Broadcasting Code:

1.5 Radio broadcasters must have particular regard to times when children are particularly likely to be listening.

2.3 In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence.

Wind-up scenarios are a common feature of many radio stations' programming output and they are generally good-natured.

On this occasion, the co-presenter called the woman pretending to be from an after-school club that her young son was due to attend. When the co-presenter said that he had called to explain the club's rules, understandably, she was keen to ensure that she understood the rules that her son would have to abide by. She went off to get a pen to write the rules down. Then the co-presenter started to speak in an overtly aggressive manner, swearing (although this was bleeped for broadcast) and using offensive language to describe the rules of the club, which included: Rule 1: 'I don't take any shit [bleeped]'; Rule 2; 'Shut the fuck up [bleeped]'. At this point he told her that she might want to pass that particular rule onto her 'little shit [bleeped]'. The woman was shocked and clearly objected, particularly as her son was in the room (at one point she could be heard asking her son to go into another room).

Given the circumstances, the call made for, at the least, very uncomfortable listening. Although the swearing was bleeped, the frequency and severity of the language was clear. Furthermore, the tone of the call was aggressive and unpleasant. Ofcom had not received a complaint from the mother, and so whether permission was given by her to broadcast the conversation was not a matter of this investigation. Nevertheless, she clearly appeared at the time of the broadcast to be distressed, angry and upset. The item was not suitable for broadcast when children were likely to be listening and was therefore in breach of Rules 1.3 and 1.5 of the Code. Moreover, we consider that the treatment of the woman in this way caused offence and breached generally accepted standards and was therefore in breach of Rule 2.3.

While we welcome the steps taken by the broadcaster to address the issues raised by this item, we were nevertheless concerned that adequate production procedures were not already in place to identify that this pre-recorded item was clearly unsuitable for broadcast.

Breach of Rules 1.5 and 2.3

We consider that the above broadcast resulted from a serious misjudgement. It is the latest in a number of findings against Radio 1. During the last year, we have published five findings concerning swearing and/or inappropriately scheduled content. Two cases were in breach of the relevant Code. A further three cases were resolved due to action taken by the broadcaster. We appreciate the wide choice of content that is broadcast by the station, but we have concerns about the number and, in some cases, the seriousness of compliance issues that have arisen. We recognise that Radio 1 aims to produce imaginative and innovative programming but the station also attracts a wide-ranging audience, including large numbers of children. It is, therefore, important that the station's compliance reflects this. Any future similarly serious compliance issues may result in the consideration of further regulatory action.

Ultimate 40 Cameos

TMF (The Music Factory), 4 April 2006, 10:30

Introduction

TMF is a pop music channel owned by MTV.

Three viewers complained about the scheduling of a video for the song *Work It* by Justin Timberlake and Nelly. The video, apparently shot at the 'Playboy' mansion, featured the artists dancing with semi-naked women. In some shots women were shown topless. In another, there was a full frontal shot of two totally naked women (some of it pixelated). The complainants considered the content of the video inappropriate for the time of broadcast.

When we asked the broadcaster for its comments, we also asked it to address the issue raised by the fact that a number of other cases (about the appropriateness of material TMF had broadcast before the watershed) had been upheld or resolved by Ofcom previously.

Response

MTV agreed that the video, which had been given a late night restriction, was inappropriate for broadcast at 10:30. It explained that there were two versions of the video, one suitable for morning transmission and another that carried a late timing restriction. On this occasion, the wrong version of the video was inadvertently programmed by the scheduler, who did not spot that the restricted edit had been selected. MTV was installing a new version of software that was intended to alert the scheduler to such an error by sending an email. Unfortunately, this error occurred during the installation of the new software, and it failed to inform the scheduler.

MTV spotted the error shortly after transmission and the following on-air apology was broadcast at 12:00 on the same day:

"TMF would like to apologise for the broadcast today of a video that contained inappropriate content. TMF apologises for any offence that this caused viewers".

MTV apologised again to us for the error, and for the offence it caused viewers.

In relation to the previous complaints, MTV said the errors were unrelated and not indicative of any underlying problem. It was confident that its warning system, now installed and fully operational, would safeguard against any further errors of this nature. MTV also pointed out that it was considering an upgrade of its entire scheduling system.

Decision

We acknowledge that the video was shown in error and welcome the on-air apology broadcast by the channel. The degree of nudity and the context in which it was shown was inappropriate for broadcast on this channel at this time and the scheduling of the video therefore breached the Code. However, we acknowledge the on-air apology MTV broadcast after the video was shown.

Nevertheless, we have some concerns regarding the licensee's compliance record. This is the third scheduling error made by TMF within a seven month period – and the sixth in two years (see also Broadcast Bulletins 9, 24, 30, 46 and 50).

Breach of 1.3 (Scheduling).

Hard-Fi: Live in Concert

E4, 14 April 2006, 09:25

Introduction

Five viewers complained about swearing (“fuck”) in this concert, which was broadcast early on a Bank Holiday. The complainants considered the swearing inappropriate for broadcast when children were watching.

Response

Channel 4 said that *Hard Fi: Live in Concert* was initially acquired with the intention of playing it in a late night slot on Channel 4. The band was popular with all age groups and therefore it was decided only two weeks before transmission that it would be appropriate to have an additional transmission of the concert in an earlier slot on E4.

Unfortunately, due to human error, the compliance edits which were recognised as necessary to make this programme suitable for a pre-watershed transmission were not made.

The department responsible for music programming had a high volume of this type of material and was very conscientious and experienced in making the necessary compliance edits for a pre-watershed transmission. There was a careful procedure put in place to ensure that these edits were made whenever necessary. This process normally took around 8 weeks from the initial consultation after the programme has been purchased to its eventual transmission. Unusually, in the case of *Hard-Fi: Live in Concert*, the deal was made relatively soon before the programme was transmitted, leaving a lot less time for this careful process.

The editing that was needed was identified - cutting the programme by 12 minutes so that it would be the right length for the slot and 5 compliance edits for strong language that would need to be made for the early repeat on E4. However a temporary member of staff failed to pass on the full instructions to the compliance editor – she relayed the information that the programme needed to be cut in length but not the information that compliance edits were required.

Channel 4 said that it had put significant resources into this kind of re-versioning work, where a programme is to be transmitted in both a post and pre-watershed slot. It was very concerned that a simple case of human error could cause such a problem and resulted in a programme being transmitted pre-watershed whilst still containing inappropriate language. In light of this incident the system had been scrutinised and further measures have been put in place designed to ensure that this type of error does not occur again. This new protocol requires all music acquisitions to be immediately marked up on the system “post-watershed” and there cannot be a “pre-watershed” version until it is either positively confirmed as such by the Commissioning Editor or following edits to make it suitable. A version marked up as “post-watershed” cannot be locked in for transmission pre 21:00, meaning that there is no chance of it accidentally being played, as was the case with *Hard-Fi*.

An apology for the strong language was made after the third part of the concert. Because the programme was close to finishing, it was decided to continue transmission until the end of the concert, rather than pull it from transmission. Unfortunately there was one further instance of strong language in the fourth part of

the programme so presentation decided to make a further apology after the programme ended. The wording of both apologies was as follows:

"E4 apologises for the strong language viewers may have heard in this programme. We hope it didn't cause too much offence."

Decision

The following Rules in the Ofcom Broadcasting Code require:

1.14 The most offensive language must not be broadcast before the watershed or when children are particularly likely to be listening.

1.16 Offensive language must not be broadcast before the watershed, or when children are particularly likely to be listening, unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed.

The repeated use of "fuck" was inappropriate for broadcast at this time of day, particularly in a concert that was likely to attract a child audience. We do accept that this occurred as a result of human error but are concerned that the programme was left to run when, at that time, the channel had no knowledge of what was to come later in the concert. The swearing in the concert, broadcast at this time, was in breach of Rules 1.14 and 1.16 of the Code.

We reported in Bulletin 30 (14 March 2005) our decision to uphold a complaint about swearing in an edition of *Faking It* broadcast pre 21:00. Both incidents occurred due to miscommunication, albeit compounded by the lack of an apology in the case of *Faking It*. We therefore welcome that E4 provided an apology on this occasion and has taken this opportunity to review its procedures in this area.

Breach of Rules 1.14 and 1.16 of the Code

Raider Nation

Sky News, 19 March 2006, 19:00

Introduction

This documentary was an examination of the pressures on American forces serving in Iraq. It contained frequent swearing, including repeated use of the word “fuck” and derivatives, in addition to “motherfucker”. The programme also showed scenes of violence, including one scene in which soldiers were shown shooting two dogs. A viewer complained that it was unacceptable to show such material at 19.00.

We asked the licensee for its comments under Rules 1.3 of the Broadcasting Code (appropriate scheduling to protect children), 1.14 (most offensive language before the watershed), 1.16 (offensive language before the watershed and frequent use) and 2.3 (generally accepted standards).

Response

Sky News said that on this date, it had needed a pre-recorded programme to be broadcast at 19:00 for one hour in order to carry out rehearsals for a future programme in the Sky News studio. Unfortunately, due to human error, this programme was scheduled for transmission in the belief that it was a pre-watershed version. In fact, the version transmitted had not been edited for earlier broadcast and had not been labelled appropriately within Sky’s scheduling system. The programme should not have been broadcast at 19:00 and the broadcaster apologised for any offence caused to viewers by this error.

In light of this incident, Sky News said it had reviewed its internal compliance processes to ensure that pre-recorded programmes were properly labelled when they were input into Sky’s scheduling systems to clearly state whether they contained potentially offensive content, such as bad language or violence, together with guidance as to appropriate scheduling.

Editorial staff and schedulers had also been reminded of the importance of ensuring that they are fully aware of the content of all programming and that all content was scheduled appropriately.

Decision

This documentary gave an insight into the pressures on American forces serving in Iraq filmed by a Sky News team. It had previously been shown a number of times post-watershed, without complaint. We acknowledge that the broadcast at this time was as a result of human error. However the scenes of violence and repeated use of offensive language in the programme were unsuitable for this time of broadcast and in breach of Rule 1.3. We were concerned that the fact that this was not identified either before, or during broadcast but welcome that Sky has now reviewed its procedures.

Breach of 1.3

Resolved

Avon Sponsorship: Footballers' Wives

ITV1, 27 April 2006, 21:00

Introduction

Another broadcaster complained about a sponsorship credit, for the cosmetic company Avon, which appeared around *Footballers' Wives*. The credit featured two glamorous women. One is eating salad and says to her companion "14 days and no chips". Laughing, she lifts her hand to reveal manicured fingernails. The credit is accompanied by the strapline "Avon Instant Manicure sponsors Footballers' Wives". The complainant objected that the credit contained a claim about the efficacy of the sponsor's product and, as such, contravened the Broadcasting Code.

Response

Channel Television, the licensee responsible for complying the credits on behalf of ITV, said that when the creative agency responsible for producing the credits began to develop script ideas, their starting point was to create common themes between the programme and the brand identity the sponsor wanted to display. Two themes were chosen to create a set of sponsorship credits that displayed a synergistic link with the show – glamour and tongue in cheek humour.

Glamour was the principal focus of each credit, which one would expect from both *Footballers' Wives* and also from a line of cosmetic and beauty products. The wry humour of the credits was used as a means of engaging the audience; keeping their attention without being advertising led.

The credits featured characters who could be described as "footballers' wives" types – tanned and glamorous and always seen in luxurious surroundings. Their partners are tanned sporty-types – the concept is that these couples could be real footballers and their wives. The bumpers play up to viewers' expectations of such characters' lotus-eating lifestyles.

It was not the intention of the credit to show a conversation about one of the character's nail polish. The women were seen in medium close-up, there was no close-up on the nails nor did the voice-over state that "Avon Instant Manicure nails are chip resistant for up to 14 days". The fact that viewers realise at the end of the credit that the character could be referring to her nails as well as to potato chips was simply a humorous play on words.

The main selling point of Instant Manicure is that the product is 'instant' – that nails can be applied in under five minutes. While the product is fairly chip resistant, Channel Television considered that 14 days without chipping was unlikely – as it would be with any other manicure. Such a claim would not be given credence by many, if any, women who have experience of manicures.

Given the sybaritic lifestyle conveyed in the bumpers it could be argued that viewers who took the comment to refer to nails would interpret this as meaning that the character has so little to do that her manicure is still intact. This line is simply playing

up to the fact that footballers' wives are viewed as being obsessed with their overall appearance – to these women, diet and make-up are key to their glamorous look.

Channel Television also said that while there was no attempt to include an advertising claim in the credit, on receipt of the complaint, the credit was removed from air.

Decision

Rule 9.14 of the Broadcasting Code requires sponsorship to be clearly separated from advertising. Sponsor credits must not contain advertising messages or calls to action. This rule is designed to ensure sponsor credits are distinct from advertising and do not count towards the amount of advertising that a broadcaster is permitted to broadcast under European legislation. It prevents sponsor credits becoming 'quasi' advertising by being used for the sort of sales propositions that should be confined to advertisements.

We recognise that the main aim of the credit was to create an association between the sponsor and the programme, and that the meaning of the claim "14 days and no chips" was intentionally ambiguous. However, we consider that viewers are likely to interpret the claim as a reference to the character's manicure. While noting Channel Television's assertion that the main selling point of the sponsor's product is its ease of application, we note from the sponsor's own catalogue that one of the benefits claimed for the product is that it "lasts up to 14 days without chipping". Such claims are capable of clearly being defined as an advertising message, as such, the credit did breach rule 9.14.

However, in view of the broadcaster's decision to immediately remove the credit on receipt of the complaint we consider the matter resolved.

Resolved

We intend to produce additional guidance to help broadcasters responsible for ensuring sponsor credits comply with Rule 9.14.

UEFA Cup

Five, 30 March 2006, 19:30

Introduction

Four viewers complained about coverage of this match which showed a supporter's banner which included the word "fucking". They thought that this was inappropriate for broadcast at this time in the evening when young viewers would be watching.

Response

Five explained that it was receiving the pictures via a live feed supplied by the Swiss broadcasters filming at the ground. The banner appeared when the coverage had moved from the studio to the stadium in Basel and teams were coming onto the pitch. It was not possible to return to the studio at that time.

The word on the banner only appeared on a couple of occasions in full view before the UK producers were able to move to a graphic as the teams were listed. At this point they contacted the Swiss authorities to request the banner be removed because it contained strong language. This was undertaken and by the start of play the banner had been removed and was not shown again.

Five explained that its producers were unable to alert the Swiss authorities before it started broadcasting the pictures, as it had not been supplied with the feed showing the banner before the coverage went live. Although one commentator referred to the banner saying, "not a very nice word there", it was not referred to further at that time as this would have only highlighted it more and perhaps exacerbated the problem. However, once the coverage was underway, the producers considered how best to deal with any offence caused and decided an apology was appropriate. This was broadcast by the commentator during the first half of the match.

Decision

We welcome the fact that Five quickly identified the issue, acted to obscure the image as soon as practicably possible and have it removed, in addition to giving an apology to viewers. In these circumstances, the broadcaster clearly acted responsibly and we therefore consider the matter resolved.

Resolved

NDTV 24x7

NDTV, 11 January 2006, 10:00

Introduction

This channel provides programmes originally broadcast in India for a UK audience. During a news programme, advertisements ran at the bottom of the screen for mobile phone packages and other services.

Another broadcaster brought this to our attention.

Rule 10.2 of the Broadcasting Code requires that “broadcasters must ensure that the advertising and programme elements of a service are kept separate.”. The Rules on the Amount and Distribution of Advertisements also contain rules regarding separation, the amount of advertising allowed per hour, and categories of programmes during which advertising is not permitted.

Response

NDTV apologised, explaining that the inclusion of a ticker containing advertising at the foot of the screen was an error. The material was in the same form as when it had been broadcast in India. This element should have been removed from the feed intended for distribution in the UK. Remedial action had since been taken.

Decision

While the inclusion of the advertisements in the programme was contrary to the Code, references to prices in rupees supported the broadcaster’s explanation. As appropriate action has now been taken, we considered the matter resolved.

Resolved

Celebrity Big Brother's Little Brother

Channel 4, 29 January 2006, 12:30

Introduction

Celebrity Big Brother's Little Brother ('CBBLB') provided an overview of the latest events in the *Celebrity Big Brother* ('CBB') house. This edition followed the final eviction and was billed as *Celebrity Big Brother's Little Brother – Reunion*. It featured an awards-style format.

During the programme, one of the former *Celebrity Big Brother* contestants referred to another of the contestants, saying "I fucking love that girl". The presenter challenged this remark saying, "...I don't mind you saying that but, please don't swear, the babies are watching.". The ex-contestant replied, "It's an illness, I've got Tourette's Syndrome". The presenter finished the exchange by saying, "...now please stop talking – I'll speak to you in a minute young man". The presenter then apologised to the camera.

At the end of the programme, Channel 4 tried to give an apology. Unfortunately, due to technical difficulties, part of this apology was inaudible. As a result, soon afterwards the Channel 4 logo and *Celebrity Big Brother* screen graphic re-appeared on screen with the following voiceover:

"...and Channel 4 would like to apologise for any strong language or inappropriate comment that you may have heard earlier from one of the housemates in Little Brother..."

One viewer complained that the swearing, at that time of day, and the remark concerning Tourette's Syndrome, were unacceptable.

Response

Channel 4 accepted that the swearing was "very regrettable". It said that there had been legal and compliance briefings given to the production team prior to the commencement of CBBLB, on the day of transmission. All contributors who were to appear on CBBLB had also been given a briefing about language and tone by a senior and experienced member of the production team. In this instance, not only had a CBBLB producer briefed the former contestant but the CBB Executive Producer also gave the housemates a briefing on the same issues. Given the tenor of post-watershed CBB broadcasts, the broadcaster considered it important that all housemates be reminded that the programme was being transmitted live and pre-watershed. For reasons of production and technical practicalities, it had been decided to "mike up" each housemate individually.

The compliance procedures used on this occasion had been the same as those that had been used for all pre-watershed live transmissions of all previous CBBLB and BBLB programmes. With the benefit of hindsight, Channel 4 believed that the decision to individually mike each housemate for the programme contributed to the audible use of strong language. Had the sound been focussed on the presenters at the time of the outburst, it was unlikely that such a remark would have been audible to viewers.

The former housemate who swore had been the recipient of an award and, like the other recipients, was interviewed by the presenter. This chat had been scheduled to

last for two minutes. However, in light of his earlier use of strong language, a decision was made by the commissioning editor for the chat to be limited to reduce the risk of further inadvertent use of strong language re-occurring.

With reference to the Tourette's Syndrome comment, Channel 4 felt that while regrettable, the remark was not aggressive in tone and was not directed at sufferers of this condition. In light of the preceding and inadvertent use of the 'f'-word, the remark had been an unscripted and unprompted reaction to the presenter's reprimand.

Following the programme (as noted above) an apology had been broadcast by Channel 4 for any offence caused.

The broadcaster made clear that the channel had always taken great care to ensure that people with disabilities and particular sensitivities were respected, and that it was proud of its record in achieving this. Channel 4 employs a Disability Advisor who is available to advise when material had the potential to offend people with disabilities. In this case, as with the use of the 'f'-word, a combination of the programme being transmitted live and all contributors being "miked" led to comments that may not otherwise have been transmitted going to air.

In light of these incidents, Channel 4 said that it had reviewed and reaffirmed its editorial and compliance procedures. The broadcaster also said that it would be giving detailed consideration to any future proposal to "mike-up" contributors.

Decision

The use of the word "fucking" during this broadcast was unsuitable for the time of broadcast and likely audience. We accept that the 'miking up' of all participants may have contributed to the incident. Given this year's CBB, it was always possible that this was likely to occur in a live programme.

However, on balance, the protective measures taken by Channel 4 were proportionate to the possible risk. The broadcaster also took steps to minimise any possible offence by issuing an on-air apology both in the programme and afterwards. We therefore consider, bearing in mind the review of procedures the channel has outlined, that the matter is resolved. We expect Channel 4 to continue to bear in mind both the possibility of such an event occurring and the likely child audience of such programmes.

The comment about Tourette's syndrome was certainly unfortunate but it was not directed at any one individual. It was also a chance remark by a character known, as a result of the series, for abrasive remarks. Such a comment should therefore be seen in such a context – and it was clearly not one condoned by the broadcaster. We also note that Channel 4 apologised for this remark as well as the earlier strong language.

Bearing in mind Channel 4's intention to undertake a review of its protective measures, we consider that this matter is similarly resolved.

Resolved

My Family and Other Animals

BBC1, 27 December 2005, 18:00

Introduction

This was a light-hearted adaptation of the Gerald Durrell autobiography, set in 1930s Corfu, and featuring a number of colourful, bohemian characters.

One viewer complained about the inclusion of swearing and offensive language such as “bloody”, “Christ-sake” and “bastards”. They considered that this language was inappropriate for broadcast at that time of day.

Response

The BBC apologised if any viewers were offended by some of the language in the film. It said that the script sought to remain true to the spirit of the original and the language was one aspect of that. The production team had felt that the language used was of a type heard frequently in the 1930’s in less conventional social circles.

The broadcaster considered that the light-hearted and essentially good-natured context would have considerably diminished the potential for offence. A principal source of the comedy was the exaggerated nature of some of the characters, and that had been reflected in their use of language as well as other aspects of behaviour.

Having said that, in the light of the concerns expressed, the BBC said that if the film was scheduled for another showing with a family audience in mind, it would re-edit the film, to remove words like “bastard” and reduce the number of milder expletives.

Decision

This light-hearted film was full of larger-than-life characters and, since it also featured animals, would have been especially attractive to a family audience during the Christmas period. It was, in terms of style and approach, therefore, appropriately scheduled both on BBC1 and in the early evening.

However, the use of stronger swearwords, such as “bastard” was problematic in terms of scheduling, despite the fact that it was an attempt to echo the language of the original novel. This was particularly so given the likelihood of the film attracting a significant number of younger viewers.

As the BBC has undertaken to re-edit this film if it is shown in a similar slot in future, we consider the matter resolved.

Resolved

American Pie trailer

Five, 20 March 2006, 19:50

Introduction

Five viewers, who were all watching with children, considered that the sexual content and references in this trail meant that it was inappropriate for broadcast when children were watching.

The trail was preceded by a spoof verbal and visual 'warning' which said:

Caution

*this film contains sex,
the use of alcohol,
nudity & sexual swear words...and pie humping*

Response

Five said that the trailer was given an 'Ex Kids' rating, which meant it would not be shown around children's programmes or at times when large numbers of children could be expected to be watching.

The 'announcement' specifically related to the content of the film, not the trailer. Given the well-known comedic nature of the film, the 'announcement' was clearly intended to be tongue in cheek, and was voiced in such a way as to sound like a spoof warning. Five said that it did not usually put warnings on its trailers, and believed that the vast majority of viewers would have recognised this to be a creative ruse.

The purpose of the trailer was obviously to promote the programme or feature and represent its content as faithfully and unambiguously as possible so that viewers could make an informed choice whether to watch the film. In this case, given the notoriously ribald nature of the film, it was felt necessary to provide a flavour of the film, and Five considered that the trailer gave a clear indication of that without being overly explicit.

However following consideration of the issues raised, Five agreed to limit any repeat of this trailer to a post-21:00 slot, should it be re-shown.

Decision

This was a trail for the well-known film about a college student's sexual adventures. The content of the trail was not actually explicit. However, it had a strong sexual tone, specifically, a verbal reference to masturbation and a scene in which a character could be glimpsed shedding her underwear in front of an eager male student. These were inappropriate for broadcast at this juncture, when a number of children were likely to be watching the surrounding programme – *The Gadget Show* (66000 children were in the audience) – even though this is not specifically aimed at a child audience. We welcome Five's undertaking to limit any repeat of this trail to a post 21:00 slot and consider the matter resolved.

Resolved

Not in Breach

Bremner, Bird & Fortune

Channel 4, 25 March 2006, 20:10

Introduction

The final sketch in this edition of the satirical comedy series explored the allegations relating to the 'loans for peerages' row. The sketch featured one of the central characters in the controversy, the Labour Party's chief fundraiser Lord Levy. He was portrayed by Rory Bremner, as Charles Dicken's Fagin. In a grey suit, wearing a prosthetic hook nose, Lord Levy, as Fagin, sang *You've Got to Pick a Pocket or Two..!* from the musical 'Oliver!', changing some of the lyrics from the verse and chorus.

In summary, eleven viewers complained that connecting the character of Fagin with Lord Levy (a prominent member of the Jewish community) was an incitement to racial hatred; a stereotypical portrayal that was offensive, anti-semitic and/or racist; and was not relevant to the story.

Response

In Channel 4's statement, it said that the character, Fagin, was an easily identifiable caricature of a cunning ringleader of an enterprise which had the sole aim of getting money out of people. The broadcaster said that the allegations of secretive and questionable financial dealings were at the heart of the claims made in loans-for-peerages controversy. Although it would have been absurd to claim that Lord Levy was literally involved in leading a child pickpocketing gang (and indeed the revised lyrics made clear that he had done nothing criminal) the satirical comparison was, in the Channel's opinion, perfectly proper in the context of the week's news.

In Channel 4's view, some of the lyrics from the song used from the musical, *Oliver!*, particularly lent themselves to the loans-for-peerages story, not least the opening lines: *"In this life, one thing counts, in the bank large amounts, I'm afraid these don't grow on trees, You've got to pick a pocket or two"*. However, *"In campaigns"* replaced *"In this life"* thereby making it clear that this was a reference to Lord Levy's role as a party campaign fundraiser and not to him personally. Further, after the first verse and until the end of the song, Lord Levy did not sing *"you've got to pick a pocket or two"* but *"You've got to give a peerage or two"*. Later references in the song were not to Lord Levy at all but to Tony Blair; *"When he sees, Someone rich, Tony's thumbs, Start to Itch ... They've got to pay a mortgage or two, So, You better give a peerage or two ..."*.

Having drawn the comedic parallel between the Fagin character and Lord Levy, Channel 4 said that it was legitimate to draw on identifiable characteristics of the fictional character. Fagin, it said, was an established part of Britain's cultural heritage. The characterisation with which the public were most likely to be familiar was that made famous by Ron Moody in the musical, released as a film in 1968. This characterisation of Fagin, included, famously, a prosthetic hooked nose, which had become a defining part of the character's identity.

It was not the general style of *Bremner, Bird & Fortune* to dress its subjects in anything other than what they might be expected to wear normally, according to Channel 4. The use of the hooked nose along with the “Fagin-esque” manner of Lord Levy’s dancing, the presence of the two street urchins and the theatrical setting were considered sufficient to make the satirical connection between the fictional character and Lord Levy. The use of a suit instead of rags further represented and reinforced the fact that this was not some nineteenth century fictional character but a modern-day member of the House of Lords. It was entirely irrelevant to the programme-makers that Lord Levy was Jewish. Had the person at the centre of the controversy been some other senior Labour party figure, he too would have been portrayed as the Fagin character.

Rory Bremner has often performed for Jewish charities, including Jewish Care, one of the UK’s biggest charities and of which Lord Levy was Chairman.

Channel 4 believed that there was nothing either in the characterisation or the lyrics which could be construed as anti-semitic and/or racist. In its view, this was quite clearly a sketch about Lord Levy, Tony Blair and Labour’s fundraising. The lines were very specific and reflected the news that week.

Fagin was an indelible part of British culture and familiar enough not to provoke anti-semitism, certainly among a *Bremner, Bird & Fortune* audience. His metaphorical depiction, in a clearly satirical context, was entirely legitimate.

Decision

Comedy, and political satire in particular, has a strong tradition of challenging the viewer’s concept of generally accepted standards. Broadcasters have the right to explore ideas and the viewer has the right to receive them as long as broadcasters comply with the law and Ofcom’s Broadcasting Code. The legislation requires Ofcom to balance the necessary protection of members of the public from offensive and harmful material with an appropriate level of freedom of expression

The complaints from viewers focussed on two Sections of the Code: Section Two concerning generally accepted standards and matters related to potentially harmful and offensive material, and Section Three concerning material likely to encourage or incite the commission of crime or to lead to disorder.

In relation to offence we considered rule 2.3:

Rule 2.3 *In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context... such material may include... discriminatory treatment... on the grounds of race [and/or] religion ...*

Guidance to the Broadcasting Code notes that:

“Broadcasters should take particular care in their portrayal of culturally diverse matters and should avoid stereotyping unless editorially justified. When considering such matters, broadcasters should take into account the possible effects programmes may have on particular sections of the community.”

We note that Channel 4 had no intention to cause offence or focus the sketch on Lord Levy’s Jewish background. We also acknowledge that, for some, the connection made by the programme between Lord Levy and Fagin, for whatever reason, was offensive. However, overall, Ofcom must judge whether, taking into

account freedom of expression and the context (such as the programme's editorial content, the service it was broadcast on and the likely expectation of the audience), whether any offence that was caused breached the Broadcasting Code.

Specifically, we considered therefore whether the sensitivity caused by the apparent linking of Lord Levy's Jewish background, with aspects of the character of a fictional criminal of Jewish descent, had led to a breach of Rule 2.3. We noted that the decision to allude to the character of Fagin by using a prosthetic nose summoned up the well known Fagin character, but could also be seen to relate to the historical stereotypes of Jewish people.

We considered that *Bremner, Bird and Fortune* is a well-established satirical show with a reputation for being inclusive and supportive of individuals who may belong to a minority ethnic or religious community. It is broadcast at a time and on a channel that is unlikely to attract people who might take its characterisations literally, or fail to understand its satirical point. It is consistent in targeting those in positions of trust and/or power and seeking to ridicule their shortcomings. It often juxtaposes two concepts such as a well-known song and an exaggerated caricature of a political figure.

Bearing this context in mind, we considered that the thrust of this sketch was to satirise the controversy over the allegations of Labour's method of fundraising and not to satirise the cultural antecedents of Lord Levy. The use of Fagin dwelt on a perception of him as a figure obsessed by gaining money by whatever means and did not refer to his faith.

We therefore concluded that the programme did not breach generally accepted standards.

Rule 3.1 *Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services.*

In our view, this was not an attack on a minority ethnic community. The depiction of Lord Levy as Fagin was clearly a satirical device used in order to highlight what had been alleged to be anomalies in political behaviour. One of satire's principal purposes, in a democracy, is to ridicule those in positions of trust or power. While it may have the effect of bringing a viewer or listener to change their mind about any given situation, it was not in this case seeking to elicit a radical response from the audience - resulting in criminal or violent acts against the subjects they scrutinise.

The programme did not encourage or incite the commission of crime or lead to disorder.

Not in breach

Fairness and Privacy Cases

Upheld

Complaint by Mr Mike O'Connor on behalf of the Millennium Commission

Five News, Five, 5 and 6 January 2005

Summary: Ofcom has upheld a complaint of unfair treatment from Mr Mike O'Connor on behalf of the Millennium Commission.

Five News broadcast on two consecutive days reports examining a number of projects that had received funding from the Millennium Commission ("the Commission"). Each item consisted of a 'countdown'. On 5 January 2005, the report was introduced as setting out to identify the "top ten Millennium flops and how much they cost" and projects 10-6 were reviewed. The amount of the Commission's grant was given as each project was discussed. A poll following the item asked "Millennium cash was it well spent?" and the immediate results were given as "a massive whopping 93% say they [the millennium millions] were wasted". On the 6 January 2005, the second report was introduced by reminding viewers that "Yesterday we started our countdown of the top 10 financial flops". The presenter said that there would be a response from the Commission who handed out the money. Projects 5-1 were then reviewed. An extract from an interview with Mike O'Connor of the Commission was included in the report.

The Commission complained that it was treated unfairly in that:

- a) the allegations, in many cases, that the ten projects featured in the report were "flops" was unjust;
- b) the reports reflected unfairly on the role of the Commission in giving grants to the projects;
- c) it was unfair to ask viewers after the first report to phone in to answer whether "Millennium cash" was well spent;
- d) it was not given an opportunity to take part in a live studio debate despite promises from Five and that it was not shown the items before broadcast nor was it told which projects would be featured;
- e), f) & g) points made during Mr O'Connor's interview were not used in the report and that although Five were aware of the Commission's broader purpose to provide public benefits, not profit, the report omitted to provide this context for the project reviews and produced an inaccurate picture of the Commission's work.

Ofcom found as follows:

- a) Looking at both reports together, Ofcom considered that given the way the word "flop" was used, that is, in the form of a countdown in reference to each and every project, the word had the potential to be pejorative. Ofcom therefore had to consider whether it was fair, in all the circumstances, to use the word "flop". The programmes' criteria appeared to focus on whether or not the projects were either making a profit or whether the projects were sustainable in the long run. Five News had identified the top 10 "flops" by taking the top 20 highest single spend sites and then selecting the 10 which

were struggling the most financially. This selection procedure was not explained to the audience.

In the case of the report broadcast on 5 January 2005, it appears from the script that the primary criteria used for defining the projects as flops was whether they were experiencing financial difficulties. However the fact that this was directly linked to the Commission was, in our view, unfair as it was not responsible for, amongst other things, the long term sustainability of the projects it helped finance.

Ofcom found that the word “flop” was, overall, not clearly defined and so was too negative a term to be used in these reports about the projects in relation to the Commission’s direct involvement. The link between the Commission and the “flops” was also re-emphasised when viewers were asked to let Five know what they thought about the Millennium Lottery fund and whether the Millennium cash was well spent.

The report of 6 January 2005 appeared to describe more clearly what criteria the programme had used to identify what was a “flop”. However, this still placed, in Ofcom’s view, too much emphasis on the role of the Commission in the long term sustainability of these projects. Overall, in Ofcom’s view it was unfair to directly link the perceived financial ‘failures’ of individual projects to the work of the Commission.

- b) See (a)
- c) Ofcom considered that although viewers may be familiar with public voting on such polls, in this case it was not clear how they should judge the question - “Millennium cash was it well spent?”. Viewers would only have seen half of the projects and there would have been no contribution from the Commission. Also it was unclear from the first report what exact criteria the programme was using to judge what “well spent” meant. Ofcom concluded that, to conduct a telephone poll and read out the results on the first programme was unfair to the Commission.
- d) Ofcom considered that the Commission was not given an adequate opportunity to respond whether in a studio interview or by other means. This was a highly critical report of the Commission’s work with some detailed criticisms. The Commission was not aware of the detail before the pre-recorded interview and therefore only appeared to give a very general response. Given the level of criticism, the response offered was not adequate and resulted in unfairness to the Commission.
- e) f) and g) In Ofcom’s opinion, the Commission was not given an adequate opportunity to respond to the reports and so the onus was on the broadcaster to provide the wider context of the Commission work, - however that was done - so that it was treated fairly in the programme as broadcast. This context was not given which resulted in the programmes causing unfairness to the Commission.

Introduction

Five News broadcast two news reports on consecutive days, examining projects which had received funding from the Millennium Commission (“the Commission”).

Each item consisted of a “countdown”. Projects 10-6 were reviewed on 5 January 2005 and projects 5- on 6 January 2005. The reports were introduced by news presenter, Ms Kirsty Young in the studio, and reported by correspondent Ms Catherine Jacob.

Bulletin of 5 January 2005

At the very beginning of this bulletin, as the programme headlined the stories to follow, the correspondent, Catherine Jacob said: “I’ll be on the hunt for the Millennium millions: finding out just what kind of legacy the Millennium Commission has left behind”.

Ms Young then introduced the report saying that the item set out to identify the “top ten Millennium flops and how much they cost”.

The reporter then went on to say in her opening commentary that “The Millennium Commission had £2 billion of lottery money... to fund projects... The lion’s share went to multi-million pound landmark attractions, designed to inspire, to educate and to regenerate and while many succeeded as you will see from our country-wide countdown, financially anyway, many others failed to live up to expectations”. She gave the amount of the Commission’s grant as each project was discussed. In the first report, she reviewed the following projects: the Spink Tower (No.10); the Our Dynamic Earth Science Centre (No.9); the National Botanic Gardens (No.8); Hampden Park Stadium (No.7) and the British Museum’s Great Court (No.6).

The item included Mr Simon Jenkins, an ex-Commissioner, who said that “I think we had too much money”. He said that mistakes were made because the large sums involved drove up the market and led to inflated building costs and that people “applied for too much money for projects they could not fund”.

At the end of her report Ms Jacob posed the question “ridiculously ambitious or risks well worth taking and what will the Commission itself have to say about our Millennium countdown?”.

The report was followed by a poll posing the question “Millennium cash was it well spent?” Viewers were invited to ring or text in their views, and the immediate results were:

- *“Only 7% of you think the millennium millions were wisely spent”*
- *“a massive whopping 93% say they were wasted”*

Bulletin of 6 January 2005

Ms Young said in her studio introduction, “Yesterday we started our countdown of the top 10 financial flops”. She reminded viewers that the £2 billion in lottery cash was for projects which were meant to enhance British life and commented that “the reality in some cases was very different”. She also said that there would be a “response” from the Commission who handed out the money.

Ms Jacob’s introduction explained that of the Commission’s 20 most expensive attractions “financially anyway half have failed to live up to expectations”. In this item Ms Jacob reviewed the following projects: the Glasgow Science Centre (No.5); Earth Centre (No.4); Cardiff’s Millennium Stadium (No.3); the At-Bristol Science Centre (No. 2); and the Millennium Dome (No.1).

Before the project at No.1 in the countdown was revealed the report included some of the "Commission's big success stories". It said that Newcastle's Centre for Life where the aim was to get young people interested in science was "thriving" and that crowds had been flocking to the Deep Aquarium in Hull. The Eden Project was described as "perhaps the biggest winner" with "visitors aplenty".

The report asked why these projects succeeded while others struggled. Ms Juliana Delaney, was interviewed as the person called upon to save some of the Commission's failing projects. She said that huge amounts of money were put into the hands of people who knew almost nothing of the visitor attraction business and that large amounts of money were gambled on projects which simply could not have been seen as sustainable by professionals at the beginning.

Ms Jacob gave the total cost of the 10 projects as £901 million and asked "was it worth it?". The Director of the Commission, Mr O'Connor, was then interviewed. He said that "after 10 or 20 years to expect not one project to fail would have been unrealistic" given the risks, locations, and innovative ideas. He said that he regretted the failures and the "human damage" but concluded that "we have left a remarkable legacy and as with all legacies their future is not guaranteed".

The Commission complained that it was treated unfairly in the programme. The Commission enclosed with its complaint to Ofcom, correspondence by executives representing a number of the projects featured in the programmes.

Ofcom considered the complaint only in so far as it related to specific potential unfairness to the Commission and did not examine the programme's treatment of individual projects.

Complaint

The Millennium Commission's Case

In summary, in the Commission's complaint and its subsequent response to Five's statement, the Commission said that it was treated unfairly in that:

- a) The allegations, in many cases, that the ten projects featured in the report were "flops" was unjust, and introducing them as such gave the viewer a prejudiced picture. The Commission subsequently stressed that it did not contend that the reports should be judged solely on the word "flops" but it believed that the introductory statement setting out to identify the "top ten flops" was unfair as it gave the impression that the projects featured were the "top ten" and that there were other flops. This was very damaging to the Commission's reputation. It was very difficult to find any reference to cultural achievement in the report.
- b) The Commission argued that the description of the selected projects as "flops" was unfair. The Commission took issue with Five's statement that it set out to review the "biggest" projects which received grants from the Commission. The Commission said Five made contradictory statements of the basis on which projects were chosen e.g. "buildings and projects", "multi-million pound landmark attractions" and "biggest".

The Commission argued that "a review of its top 10 largest grants would have given a better impression [to viewers] of our use of public money". The Commission pointed out that only 4 of those featured in Five's report were included in the Commission's list of the 10 biggest grants which was submitted to Ofcom in their statement.

The Commission gave a detailed critique of the reviews of the individual projects including that: alternative or additional information which could have provided a more balanced picture of the financial status of projects was omitted; the report failed, with regard to one national project, to see the wider context of other like projects which receive ongoing public support; a comment was wrongly attributed to the director of a project and it was disputed that the comment was ever made in any event; one interviewee made an allegation which was untrue and was not checked by Five; the report was sensationalist and misleading; there were inaccuracies in the reports which created an exaggerated picture of financial failure; and some of the information was presented out of context and was biased. The Commission said that it was not the Commission's case, as claimed in the programme, that one of the projects mentioned [now closed for financial reasons] was a success.

In essence the Commission complained that for all these reasons it was unfair to refer to these projects as "flops", and that that reference in all the circumstances reflected unfairly on its role in providing grants to the projects.

c) The Commission also felt that because there was "only three words of balance" - "while many succeeded" in the first report and viewers had no opportunity to vote after the second report which contained "what little balance there was", it was unfair to ask viewers after the first report to phone in to answer whether "Millennium cash" was well spent. The Commission said that "viewers were led to an inevitable conclusion which Five described as a 'whopping 93% say they [Millennium grants] were wasted'."

d) The Commission claimed that it was not given an opportunity to take part in a live studio debate despite promises from Five. The Commission said it was not shown the items before broadcast nor was it told which projects would be featured. The Commission's agreement for the Director of the Commission to be filmed was reliant on the promise of a live studio discussion so that he would be able to comment after seeing both reports.

The Commission subsequently accepted Five's argument that Ms Jacob could not have given a guarantee of the Director's participation in a studio debate, but the Commission had understood at that time that she had done so and that there would be a live debate and that they would have had the opportunity to take part in it. The Commission maintained that it would not have agreed to a pre-recorded interview without a chance to see the coverage and comment live on air. The Commission said that it did not accept Five's argument of a last-minute agenda change, because the feature was not time-critical so it did not have to be shown on a particular occasion.

e) The Commission said that the point made repeatedly by Mr O'Connor during the filming - that only 3 of the 215 projects funded by the Commission had closed - was not included in the report. This would have put the Commission's legacy more fairly into context. The Commission argued that it did not raise any objections to the line of questioning during the interview because it assumed it would have an opportunity to respond in a live programme.

The Commission said that out of a fifteen minute filmed interview with the Director only an "unrepresentative few seconds" were included. The Commission said that although the Director's comment was placed at the end of the second edited report the Director had not seen what had gone before in the reports and so did not have the last word in the reports as Five claimed. The Commission said that Five had the last word which cast doubt on whether the Commission had achieved a lasting

legacy. The comments broadcast were not representative of the key point the Director made which was that the Commission took measured risks and only by taking risks does one achieve significant results.

f) The Commission complained that the reports failed to utilise positive examples provided by them. The judgements about the featured projects were not justified in the context of the Commission's wider portfolio of grants which was extremely varied in size, type and location and which Five was aware of. The Commission argued that the report was not balanced as the projects which Five described as successes were given relatively much less coverage.

g) The Commission said that Five was aware that the Commission's purpose was to provide public benefits not to enable organisations to make profits. This would include the possibility that some projects they funded might run at a loss. Five also knew that projects that sought Commission grants were aware that no revenue funding is available from the Commission.

Five's Case

Five stressed in its introduction that although letters by the individual projects raising issues had been submitted by the Commission with its complaint, these were not complaints made by the projects, and that it should not be forgotten that the Commission was one of the funding bodies for the projects.

In summary, Five made the following comments in its two statements in response to the Commission's complaints:

a) The studio introduction set out what the reports sought to review, namely whether a number of key Commission projects represented a lasting legacy and what had happened to the enormous public investment five years on.

Five did not accept that the report should necessarily be judged on the use of the single word "flop". Five said the report must be considered as a whole and pointed to Ms Jacob's opening statement which they said made clear what was being addressed: "The Millennium Commission had £2 billion of lottery money... to fund projects...The lion's share went to multi-million pound landmark attractions, designed to inspire, to educate and to regenerate and while many succeeded as you will see from our country-wide countdown, financially anyway, many others failed to live up to expectations". The report mentioned that many of the projects succeeded. The financial state of the projects was questioned rather than their cultural significance. Nonetheless Five argued it was not materially unfair or inaccurate to use the word "flop" in the introduction.

b) Five said that it had made clear to the Commission's Press Office that it wanted to look at the "highest spend single site attractions" and that the information provided by the Press Office was the top 20, by size of Commission grant. The 10 projects featured in the report were included in that top 20.

Five gave a detailed justification in every case of its descriptions of the projects. Amongst other points Five cited: the considerable questions that have been and are being raised about the financial state of one of the projects; the scope of the report which took a snapshot at the beginning of 2005; that it was irrelevant to compare with other national projects which had not received a Commission grant; that the reporter used accurate contemporaneous notes of discussions and that her report accurately summarised what she was told; what it saw as semantics in the case of the actual job

title of an individual to whom comments were attributed; the interviewee whose allegation was challenged made an uncontroversial point which was corroborated by comments by the chair of the project's trustees; that given one project was closed for financial reasons it could not be denied it had not represented a lasting legacy and the grant was not well spent.

Five also said that projects' debts were mentioned in the report as descriptions of their financial position and no criticism of the Commission was implied. Five defended its descriptions of the financial state of individual projects and the terms it used to describe them. It also defended the report's questioning of the "lasting legacy" of others. At one point Five said that it had been difficult to ascertain reliable financial information for the project concerned and gave an example of a small discrepancy in figures provided by the Commission for a project. Five argued that any accurate assessment of that project's finances was difficult, but that its description of the state of the project was not materially inaccurate or misleading. Five also argued that it used the best figures available at the time of preparing the report. Five claimed that the comments of those interviewed were not taken out of context and the interviewees were not misled. Five claimed that it placed no specific blame on the Commission in the project reviews but raised questions on issues which, in at least in one case, was already a reported matter of public debate.

c) Concerning the telephone poll, Five said that with hindsight, the poll should have appeared after the second part of the report when the viewers would have seen all 10 projects featured, and heard all of the comments.

d) In relation to the opportunity to take part in the studio debate, Five claimed that Ms Jacob was satisfied that, at all times, her dealings with Mr O'Connor and the Commission "were open, honest and fair", and that at all times the Commission's Press Office staff were told that the broadcast date was uncertain particularly given the Asian Tsunami. Five said that its intention was to have a live studio debate with Mr O'Connor, but that the Commission was told continually that this was a "moveable feast" and could not be guaranteed, so a pre-recorded interview was arranged to ensure comment from the Commission. Five said that Ms Jacob believed that the Commission understood this and denied that Mr O'Connor's participation in the studio debate was a pre-condition for him doing the recorded interview. Five said Ms Jacob could not and would not make such an agreement given the constraints of news.

Five said that Ms Jacob believed that Mr O'Connor clearly understood the line of questioning [during the interview] and the nature of the report. Five also said that Mr O'Connor had the last word in the report and was able to make a number of positive observations. Five argued that the use of his interview was not unfair to him and his statement was not taken out of context.

e) Concerning the complaint that the report failed to use the positive examples provided, Five said that it was made clear at the beginning of the report that many projects succeeded and it did not accept that its decision not to include the Commission's comment that only 3 out of 215 projects had failed, led to material unfairness. Five said that the producers were happy that the comments used were a fair reflection of the interview with Mr O'Connor. They added that this is an editorial matter and the editing of the interview was not unfair to Mr O'Connor or the Commission.

f) Five said that it was not able to discuss all of the Commission's work in a report of this nature. This was not an analysis of the Commission's wider work or its

contribution more generally but that the second part of the report did highlight success stories as examples of Commission financial input that have resulted in lasting legacies.

g) Concerning the argument that the Commission's purpose was to provide public benefit rather than profit, Five said it was never asserted in the reports that profit was a motivating factor rather [it was asserted] that a number of these projects were having difficulty sustaining themselves. Five cited the point made by Mr Jenkins, the ex-Commissioner, that the need for sustainability should have been a criteria for assessing projects to receive grants. Five said that the report sought to assess whether the projects funded by the Commission had been "a success from a financial standpoint" and whether they represented money well spent and an appropriate legacy.

Five said that the report was a legitimate review of some enormous projects which had received significant amounts of public money and which were in a questionable financial state. The Commission's good works and lasting legacies were not ignored but were not the primary issue in the report.

Five concluded that the report: was not an unfair attack on the Commission; was not wholly negative and lacking in balance; was factually accurate and not exaggerated or misleading; was not unfair in terms of the Code; did not misrepresent those who were interviewed or spoke with producers; did not identify anyone in the report in a way that could have misled viewers. Five said that it did not mislead the Commission or treat it unfairly.

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 programmes included in such services.

Ofcom is also obliged to have regard in all cases, to principles which require regulatory activities to be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

In carrying out its duties, Ofcom has regard to the need to secure that these standards are applied in a manner that best guarantees an appropriate level of freedom of expression. Thus in reaching its decision Ofcom considered that in keeping with the principle of freedom of expression, it was within the remit of a news programme to critique and evaluate public projects where there had been a large expenditure of public money. Therefore in the context of this news report, Ofcom concluded that Five had the right to conduct such a review.

a) The Commission complained to Ofcom that it was unfair for *Five News* to refer to the ten projects it featured as "flops" – and this resulted in damage to the reputation of the Commission.

Ofcom took into account the fact that broadcasters are required to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. Broadcasters are also required to take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible are fairly presented. Ofcom noted Five's

claim that the report should not be judged on the word “flop” and its contention that the Commission had judged the report on that one word. While Ofcom looked at both reports together, it considered that given the way the word “flop” was used, that is, in the form of a countdown in reference to each and every project, the word had the potential to be pejorative. Ofcom therefore had to consider whether it was fair, in all the circumstances, to use the word “flop”.

In its introduction to the report of 5 January 2005, the presenter explained that the report would question whether the Commission had delivered on its promise to give “a lasting legacy” when it had been given billions of pounds to spend on new buildings and projects. The programme said that it had been “investigating just what happened to all that cash” and that the reporter identified “the top ten millennium flops and how much they cost”.

In the second report broadcast on 6 January 2005, the programme stated that they were counting down on the “top ten financial flops”. It then continued to say that the programme had found that half of the most expensive 20 attractions that the Commission had financed had “failed to live up to [financial] expectations”.

Ofcom considers that the bulletins set out, particularly in the introductions, but also in the reports, to analysis the projects it had chosen, in direct reference to the Commission’s work. For instance, the reporter stated that, “I’ll be on the hunt for the Millennium millions: finding out just what kind of legacy the Millennium Commission has left behind”. For each project, the amount of money the Commission had granted was referred to in the script. The programme’s criteria appeared to focus on whether or not the projects were either making a profit or whether the projects were sustainable in the long run. In fact, Five News had identified the top 10 “flops” by taking the top 20 highest single spend sites and then selecting the 10 which were struggling the most financially. This selection procedure was not explained to the audience.

It is perfectly legitimate for a programme to refer editorially to events or projects as flops – so long as it is fair to do so. In the case of the report broadcast on 5 January 2005, it appears from the script that the primary criteria used for defining the projects as flops was whether they were experiencing financial difficulties. However the fact that this was directly linked to the Commission was, in our view, unfair. The Commission was responsible for allocating money to millennium projects and while they were responsible for choosing projects which would inspire, educate and regenerate, it was unfair to appear to hold the Commission responsible for projects which were not sustainable in the long term or for building work that had not been completed as it was not responsible for the long term sustainability of the projects it helped finance.

It was also unclear which specific criteria the programme appeared to be using in assessing failure – e.g. whether a project was over-budget or built on-time, or the amount of ticket sales. Furthermore, it would have been fairer if other factors had been taken into account when assessing whether or not a project was a “flop”. For instance, it was understood from the point at which the Commission contributed to a project that some projects would service a debt to begin with, and this was accounted for in the business plan. Yet that planned ongoing debt was one of the factors that appeared to contribute to the use of the word flop. The word “flop” was therefore overall not clearly defined and so was too negative a term to be used in these reports about the projects in relation to the Commission’s direct involvement.

This link between the Commission and the “flops” was also re-emphasised when viewers were asked to let Five know what they thought about the Millennium Lottery fund and whether the Millennium cash was well spent.

We noted that the subsequent report, broadcast on 6 January 2005, referred to the previous projects examined in the report of 5 January 2006 as “financial flops” and not simply “flops”. This appeared to describe more clearly what criteria the programme had used to identify what was a flop. However, this still placed, in Ofcom’s view, too much emphasis on the role of the Commission in the long term sustainability of these projects. The report talked about projects which had plummeting profits and one was described as the “Millennium Commission’s biggest financial loss”. While we believe that it was more accurate and therefore fairer to the Commission to define the flops as “financial”, we still consider that there was too great a connection made between the Commission’s decision to give a grant and the ongoing financial status of projects. There appeared to be a direct connection made in the report between the Commission’s work and the projects that were described as “flops”.

Overall it may be legitimate to criticise the work of the Commission. Similarly, it may have been fair to describe some of these projects as “flops”. However, in Ofcom’s view it was unfair to directly link the perceived financial ‘failures’ of individual projects to the work of the Commission.

b) As stated above in the “Introduction”, Ofcom considered the complaint only in so far as it related to specific potential unfairness to the Commission and did not examine the programme’s treatment of individual projects. In the circumstances, Ofcom restricted its consideration of this element of the complaint to whether or not it was fair to describe the projects as “flops” and how that reflected upon the work of the Commission. Please see finding a) above.

c) The Commission complained that it was unfair to ask viewers in a telephone poll, at the end of the first report, whether “Millennium cash” had been well spent. In reaching its decision on this matter Ofcom had regard to the fact that broadcasters are required to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. Broadcasters are also required to take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible are fairly presented.

Ofcom noted that Five had admitted in a letter to the Commission that with hindsight the telephone poll could have been handled better and that in its submission to Ofcom, Five said that “the telephone poll should have appeared after the second part of the report (i.e. on the 6 January 2005) when the viewer would have seen all the projects featured and heard all of the commentary from Ms Jacob’s report”.

Ofcom considered that although viewers are familiar with public voting on such polls, in this case it was not clear how they should judge the question - “Millennium cash was it well spent?”. When the poll was conducted, the viewers would only have seen half of the projects and there would have been no contribution from the Commission and little positive references to any of the Millennium projects. It was also unclear from the first report, what exact criteria the programme was using to judge what “well spent” meant. Ofcom also considered the Commission’s submission that the Millennium fund was meant to deliver other benefits and the Commission was not responsible for the longer term financial viability of the projects. Ofcom concluded

that, to conduct a telephone poll and read out the results on the first programme was unfair to the Commission in this context and for the reasons described here.

d) Ofcom then considered the Commission's complaint that it was not given an opportunity to take part in a live studio debate (despite promises from Five) and that the Commission was therefore not given the opportunity to respond to claims made in the report. Ofcom has regard to the fact that broadcasters are required to deal fairly with contributors and where they are invited to make a significant contribution to a factual programme, they should be told what kind of contribution they are expected to make – for example by way of interview or as part of a discussion; be informed about the areas of questioning, and, wherever possible, the nature of other likely contributions. Contributors should also be told whether their contribution is to be live or recorded; and, if recorded, whether it is likely to be edited.

Ofcom noted that there was a conflict of evidence as to whether or not the Commission's agreement to give a recorded interview was conditional on the Commission's participation in a live studio debate on this issue. Ofcom also noted that the Commission later accepted that because of the nature of news, the reporter could not have given such a promise. Even so, the Commission still argued that it had believed, at the time, that it would have the opportunity to take part in a live debate.

The Commission was given an opportunity to respond in the programme by means of a pre-recorded interview. However, Ofcom had to decide, given the circumstances of the case and the criticisms in the report, whether that opportunity was adequate. Ofcom considered that the Commission was not given an adequate opportunity to respond whether in a studio interview or by other means. In our view, this was a highly critical report of the Commission's work with some detailed criticisms. The Commission was not aware of the detail before the pre-recorded interview and therefore only appeared to give a very general response. The viewer was led to believe through statements in the programme such as "what will the Commission itself have to say about our Millennium countdown" and "Later the head of the Commission defends its decision making process", that the Commission was going to be able to give a well-informed interview. Given the level of criticism, the response offered was not adequate and resulted in unfairness to the Commission.

e), f) and g) Ofcom considered the Commission's complaints that points made during Mike O'Connor's interview (and the more positive examples provided to Five that give a more balanced context) were not used in the report. Ofcom also considered the Commission's complaints that although Five were aware of the Commission's broader purpose to provide public benefits – a purpose which might involve funding some projects with run at a loss – not profit, the report omitted to provide this context for the project reviews, and produced an inaccurate picture of the Commission's work. Broadcasters are required to take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations: and that broadcasters are also required to take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible are fairly presented.

Decisions about what the editorial content of programmes should be is a matter for broadcasters, so long as they ensure that the treatment of participants in programme is fair. In this case, we do not believe that it was unfair not to include the specific examples given by the Commission (for example the claim that only 3 projects out of 215 had closed, that the Commission's portfolio of grants was extremely wide, or that the purpose of some projects was to provide public benefit not profit). This is so long

as the overall context of the Commission's work was apparent from the report given that it set out to look at the Commission's promise of "a lasting legacy from our lottery money". The programme also promised to address the question "just what kind of legacy the Millennium Commission has left behind?". In Ofcom's opinion, the Commission was not given an adequate opportunity to respond to the reports. Therefore the onus was on the broadcaster to provide the wider context of the Commission work - however that was done - so that it was treated fairly in the programme as broadcast. This context was not given and so the Commission was treated unfairly in the reports.

Accordingly, and for the reasons stated above, Ofcom concluded that the reports resulted in unfairness to the Millennium Commission.

Upheld in part

Dr Rupert Sheldrake

*Is it Real? Psychic Animals, National Geographic Channel – UK,
Various dates 25 July – 7 Oct 2005*

Summary: Ofcom has upheld in part this complaint of unfair treatment.

Dr Rupert Sheldrake was a participant in the programme and provided details about his study into the case of a parrot that he reported was able to respond telepathically to his owner. A sceptic replicated Dr Sheldrake's test with a different parrot and concluded that Dr Sheldrake's analysis and interpretation of Dr Sheldrake's original test results were flawed.

Dr Sheldrake complained of unfair treatment in that: the programme presented his work in a false and misleading way; the programme makers did not honour their assurances that the programme would be presented in a fair and unbiased way; and, neither he nor any other qualified scientist had been offered an opportunity to respond to the sceptic's criticism.

Ofcom found the following:

- a) The programme did not make false claims about Dr Sheldrake's research, rather a critique of his analytical approach was offered. This critical point of view was acceptable given both the expectation that scientific research would and should be subjected to examination and that Dr Sheldrake's scientific referees had raised various queries about the way he analysed his research data.
- b) The lack of a balancing view in the programme as broadcast led to the breaking of the guarantee given to Dr Sheldrake regarding the content of the programme. This resulted in unfairness to Dr Sheldrake.
- c) The programme makers' failure to give Dr Sheldrake an opportunity to respond to what would amount to a damaging critique of his research resulted in unfairness to Dr Sheldrake.

Introduction

This programme examined: the reported ability of animals to predict disasters; whether pets have telepathic connections with their owners; and whether pets can be psychic. Specifically, the programme questioned whether any such abilities were a "sixth sense" or simply a natural super sensitivity that animals have to their surroundings.

Dr Rupert Sheldrake was a participant in the programme. He provided details about his study into the case of a parrot, called N'kisi, and reported that the animal was able to respond telepathically to its owner. This experiment had involved placing N'kisi and his owner in separate rooms. The owner then looked at pictures of objects (which N'kisi had identified in the past) for a set amount of time. Every time that N'kisi was able to say the name of an object, at the same time that the owner was looking at a picture of the object in the other room, a "hit" would be recorded. The premise of the experiment was that the more hits recorded in the trials, the more telepathic N'kisi proved to be. The full details and results of Dr Sheldrake's experiment were

published as a research paper in the *Journal of Scientific Exploration*¹ (“the Journal”) and this research paper was referred to in the programme.

The programme provided a summary of Dr Sheldrake’s experiment in the programme and later placed those tests under the scrutiny of a sceptic, Tony Youens. Mr Youens attempted to replicate Dr Sheldrake’s test with a different parrot called Spaulding and concluded that Dr Sheldrake’s analysis and interpretation of Dr Sheldrake’s original test results were flawed.

- Mr Youens claimed Dr Sheldrake skewed N’kisi’s test results by only counting the trials when N’Kisi actually spoke. This criticism was accompanied by the quote “they [those trials where the parrot did not speak] were irrelevant to the analysis” which was taken from Dr Sheldrake’s research paper.
- Mr Youens also claimed that Dr Sheldrake skewed N’kisi’s test results by not counting the trials if the picture cards showed an object which N’kisi rarely said. Similarly, the criticism was accompanied by the quote “exclude the trials involving those images” which was taken from Dr Sheldrake’s research paper.
- Mr Youens claimed that if Spaulding’s test results were analysed in the way Dr Sheldrake had analysed N’kisi’s, Spaulding would appear to be telepathic also.

Dr Rupert Sheldrake complained that he was treated unfairly in the programme as broadcast.

The Complaint

Dr Sheldrake’s case

In summary, Dr Sheldrake complained that:

- a) the programme presented his research material in a false and misleading way. Specifically it was claimed in the programme that:
 - i) Dr Sheldrake’s results were skewed because in his test he only counted trials when parrot actually responded to the stimuli (as opposed to making no noise);
 - ii) Dr Sheldrake’s results were further skewed because in his test he discounted those trials which required the parrot to say a rarely used word.
 - iii) When Dr Sheldrake’s methods of analysis were applied in the programme’s test, the programme’s parrot appeared telepathic with a success rate of 27%;
- b) the programme makers gave assurances that Dr Sheldrake’s work would be presented fairly and without bias; which they did not fulfil; and,
- c) the programme makers did not offer Dr Sheldrake, nor any other qualified scientist, an opportunity to respond to Mr Youens’ claims;

¹ Journal of Scientific Exploration (2003, Vol 17, pages 601-616)

National Geographic Channel - UK's (National Geographic) case

a) National Geographic and the programme maker National Geographic Television & Film maintained that Dr Sheldrake's research and material was not presented in a false and misleading way. The broadcaster explained that more than a dozen scientists and experts, many of whom did not appear on-screen, had been consulted in the development of the programme and their critique included within it.

It was stated that Dr Sheldrake's original published paper had been reviewed by two experts. One expert expressed repeated concern about the statistical analysis in the paper, and concluded, "I do not believe that this experiment provides any evidence supporting the claim of telepathy". In response to Dr Sheldrake's specific complaints, National Geographic responded as follows:

i) With regard to the programme's critique of Dr Sheldrake's decision to exclude trials when N'kisi did not speak, the broadcaster said their experts provided strongly supported arguments that it was wrong not to include these instances. It was suggested that if such data was removed, the outcome of the test could be determined by the chattiness of the bird on a particular day. National Geographic denied that the quote "they were irrelevant to the analysis" that was used in the programme (taken from Dr Sheldrake's research paper), had been used out of context. It was maintained that the quote was used as it was meant in the research paper.

ii) In relation to the exclusion of rarely used words from the results National Geographic said experts had again been consulted. For example an expert statistician reviewed the paper and made a number of critiques which included:

"The experimenter has complete control to pick unambiguous targets, and that is exactly what should have been done...if there are more images that correspond with commonly used key words, the bird has an advantage...the idea of throwing out some trials has no justification – either the bird got it, or not".

Programme makers also denied that they used the quote "exclude the trials involving those images" from Dr Sheldrake's research paper in an unfair or misleading way. They explained it had been drawn from a section of the research paper, where Dr Sheldrake outlined a better method of analysis and had been used in context.

iii) Programme makers said that they made all efforts in good faith to replicate Dr Sheldrake's experiment with their parrot Spaulding. National Geographic maintained that if the analysis methods used by Dr Sheldrake during his test with N'kisi were applied to the test with Spaulding, Spaulding appeared telepathic with a score of only 29% (as stated in the programme). This score was calculated by the exclusion of trials in which Spaulding did not speak and the removal of trials where Spaulding was required to state a rarely used word; the methods originally used by Dr Sheldrake.

b) National Geographic said that programme makers had told Dr Sheldrake that the programme would not be biased in either direction and believed this assurance had been met. The broadcaster maintained that Dr Sheldrake's research and material had been accurately presented in the context of scientific enquiry. The material had then been critiqued and tested in a fair, accurate and non-biased manner. The

producer of the programme explained to Dr Sheldrake in a letter to him that where necessary the “flip side of the coin” would be presented. National Geographic said that this was exactly what the programme achieved. The programme had made no final conclusions but left them to be drawn by the individual viewer.

c) National Geographic said that Dr Sheldrake’s response to the sceptical point of view was included in the programme and referred to the following comment made by the complainant in the programme: “Totally to ignore the animals seems to me dogmatic, not scientific. And I’m more interested in dogs than dogmas”.

In addition Dr Sheldrake and his colleague had been invited to participate in the contra-experimentation, however both declined. National Geographic noted that the programme makers consulted many “other qualified scientists” in developing the programme, all of whom supported various aspects of the critique presented in the programme.

Dr Sheldrake’s response to National Geographic’s statement

a) Dr Sheldrake rejected the claim that the programme had presented his work in a fair way. Dr Sheldrake said that Tony Youens, together with the narrator, tried to give the impression that Dr Sheldrake had manipulated the results of his experiment by omitting data and carrying out calculations designed to magnify the significance of the findings. The programme implied that once Tony Youens had found ‘holes’ in Dr Sheldrake’s experiment, the positive results and significance of the research paper itself disappeared also, which was false.

i) Dr Sheldrake said the programme’s treatment of his decision to remove trials when N’kisi did not respond, was flawed for two reasons:

a) The programme did not understand that the decision not to include these trials was in line with established practice in mainstream research with animals, young children and autistic people. Dr Sheldrake explained that analysis is performed in this way, to take into consideration the subject’s limited attention span and inability to know that they are being tested.

b) Notwithstanding the first reason, Dr Sheldrake said the programme completely ignored a key finding of one of the paper’s reviewers. This reviewer, included at the end of the paper, directly questioned and tested the effect that the removal of non-response trials had had on the results. The reviewer found that if the non-response trials were included, the results “differed only trivially”. Therefore it was false for the programme to imply that by omitting these trials the results would have altered.

Dr Sheldrake said the programme implied that by removing the trials, where rarely used words were used, from the analysis of test results he increased the probability that N’kisi would appear telepathic.

However, Dr Sheldrake said that, as his paper had explained, by removing such trials the opposite occurred: the removal of such trials “made the result slightly less significant, rather than more so”. Dr Sheldrake said the programme failed to explain that regardless of which methods of analysis were used, the experiment’s results remained significantly above the level of chance.

- ii) Dr Shel Drake maintained that the test conducted by programme makers was flawed, therefore making a comparison between the two tests unscientific. However notwithstanding such flaws, Dr Shel Drake said that the programme's attempts to apply his methods of analysis were misleading for the following reasons:
 - a) Dr Shel Drake's conclusions were not based on 'percentage hit rates', as used by programme makers. Rather the conclusions were based on standard kinds of statistical probability analysis including randomised permutation analysis.
 - b) The programme implied that N'kisi's success in telepathy tests was a result of data manipulation rather than due to any genuine ability of N'kisi. The programme made it appear to viewers that Dr Shel Drake had omitted or massaged data to get the desired result, regardless of what the facts indicated. Dr Shel Drake said his results were analysed in several alternative ways and the significance of the results were not dependent of the type of analysis used.
- b) Dr Shel Drake rejected National Geographic's claims that the programme was "fair, accurate and non-biased" and disputed that the "flip side of the coin" had been presented. Dr Shel Drake noted that the choice of experts used by programme makers ensured that the programme did not present both sides of the argument fairly.
- c) Dr Shel Drake maintained he had been given no chance to reply to Mr Youens' critique of his research, or to comment on the programme's experiment. Dr Shel Drake said the quote referred to by NCG-UK as being Dr Shel Drake's response to the sceptical point of view was used out of context and had been filmed before the experiment took place.

National Geographic's second statement

The broadcaster maintained that Dr Shel Drake was not treated unfairly in the programme as broadcast. Programme makers said the programme's content and context had been clearly explained to Dr Shel Drake, prior to his participation, and that Dr Shel Drake was able to clearly represent his views at various stages during the programme. Further, the programme made no allegations against Dr Shel Drake of wrongdoing or incompetence. National Geographic said their programme was produced in a thoroughly professional manner and was fair and balanced.

Decision

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

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

Ofcom acknowledged that within the field of scientific study and research, discussion over different methods of statistical analysis is common. Indeed such discussion and debate are essential for the formulation of robust, statistically sound scientific theories and findings. It is not for Ofcom to adjudicate on whether any particular type of statistical analysis is better than another, but rather whether a person has been treated unfairly in a programme. Accordingly Ofcom considered it was likely that within any field of scientific study, and in particular for emerging fields of study, the opportunity for debate over methods of statistical analysis would be expected and warranted.

However, Ofcom noted 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.

a) Dr Shel Drake complained that the programme made three false claims about his work. Ofcom did not consider the programme made false claims with regard to its assessment of Dr Shel Drake's work. Rather it is Ofcom's opinion, that the programme provided a critique of Dr Shel Drake's methods of analysis, which was warranted given the acknowledged differing opinions of what was the best form of analysis for this type of experiment. When coming to this conclusion, Ofcom took into consideration the varying expert opinions provided in Dr Shel Drake's paper and those offered by the broadcaster. In particular Ofcom noted that the editor of "the journal" made the following acknowledgment:

"This article is another instance of your Editor's difficulties where research protocols and statistical inference are questioned...I want to express publicly our deep indebtedness to reviewers who have time and again spent much time and effort in clarifying issues, stimulating authors to refine their presentations and informing readers of the *various views that can be legitimately taken on some of these matters.*" [emphasis added]

Therefore, Ofcom found that the programme did not make false claims about Dr Shel Drake's research; rather a critical point of view was offered. This critical point of view was acceptable given the various views taken on some of the matters raised in Dr Shel Drake's research.

Ofcom found no unfairness in this respect.

b) Dr Shel Drake complained that the programme makers gave assurances that his work would be presented fairly and without bias, which they did not fulfil. Ofcom noted that both broadcaster and complainant offered correspondence which confirmed that such an assurance had been given by programme makers to Dr Shel Drake.

"Being National Geographic, and having a very strict policy of balanced reporting, we cannot be biased in either direction. It is our job to present the work being done and where deemed necessary and in all fairness, we will often include the flip side of the coin. I absolutely have no intention of putting anyone in an unfair, uncomfortable position or making anyone look silly. My goal is to present science."

Ofcom's Broadcasting Code outlines that guarantees given to contributors for example relating to the content of a programme, confidentiality or anonymity, should normally be honoured.

In the programme, general details of how Dr Sheldrake carried out his experiment with the parrot N'kisi were given. This was then followed by a critical appraisal by Mr Youens of the way in which Dr Sheldrake analysed the results contained within his experiments. As stated above, such a critical view is acceptable and in itself did not result in unfairness to Dr Sheldrake. However, Ofcom noted that at no point were the criticisms expressed by Mr Youens countered or balanced by a response by Dr Sheldrake (or by another scientist of opposing opinion).

It is Ofcom's opinion that in order for the programme makers to meet the guarantee of unbiased and fair reporting (as noted in the email extract above), it was necessary for the programme makers to offer an alternative view to the critique given by Mr Youens. Ofcom concluded that the lack of such an opposing view in the programme as broadcast led to the breaking of the guarantee given to Dr Sheldrake regarding the content of the programme. This resulted in unfairness to Dr Sheldrake. Ofcom has upheld this part of the complaint.

c) Dr Sheldrake complained that the programme did not offer him or any other qualified scientist an opportunity to respond to Mr Youen's claims, which resulted in unfairness. As previously noted, 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. Accordingly, Ofcom first considered whether the programme made any such allegations. In this respect, Ofcom concluded that the programme's critique of Dr Sheldrake's work was capable of adversely affecting the regard in which Dr Sheldrake's work was held which in turn drew into question Dr Sheldrake's professional credentials. As such, Ofcom considered that in order for the programme not to be unfair to Dr Sheldrake, programme makers should have given Dr Sheldrake an opportunity to respond to the criticisms contained in the programme concerning the conduct of his experiment and his interpretation of that experiment. Ofcom noted that though Dr Sheldrake had been asked to make a contribution to the programme on a number of occasions, at no time was he asked to comment on the specific criticisms of his research which were to be included in the programme. This failure to give Dr Sheldrake an opportunity to respond to what would amount to a damaging critique of his research resulted in unfairness to Dr Sheldrake. Ofcom has upheld this part of the complaint.

Ofcom has partly upheld Dr Sheldrake's complaint of unfairness in the programme as broadcast.

Not Upheld

Mrs Comfort Afolabi on her own behalf and on behalf of the Detainee Support and Help Unit

Five Live Report, BBC Radio Five Live, 27 February 2005

Summary: Ofcom has not upheld this complaint of unfair treatment from Mrs Afolabi on her own behalf and on behalf of the Detainee Support and Help Unit.

This programme investigated the trade in fake documents to people wishing to enter and remain in the country illegally. The activities of the Detainee Support and Help Unit (DSHU) were examined with the help of undercover reporter 'Joseph', who the programme said posed as an asylum seeker. The programme alleged that the DSHU's founder, Mrs Afolabi, helped 'Joseph' purchase illegal documents.

Mrs Afolabi complained that she and the DSHU had been treated unfairly in that:

- a) the programme alleged DSHU had been involved in providing fake passports without providing evidence;
- b) the programme makers had unfairly edited the secret recordings to give the impression that she was involved in supplying fake documents;
- c) the programme falsely claimed that 'Joseph' posed as an asylum seeker;
- d) the programme failed to include that 'Joseph' had told her his wife had been killed and his children were starving; and
- e) the programme gave a misleading account of why 'Joseph' was asked to return to the DSHU office after his first meeting.

Ofcom found as follows:

- a) The programme clearly set out the evidence against Mrs Afolabi and the DSHU, and Ofcom was satisfied that this evidence was presented fairly. In addition Ofcom found the programme makers were fair in their dealings with the DSHU by offering Mrs Afolabi as Head of the DSHU an opportunity to respond to the allegations.
- b) Ofcom found that the edited secret recordings included in the programme were fair and were used in the same context as they occurred in the unedited recordings.
- c) Ofcom found that it was fair for the programme to state that 'Joseph' posed as an asylum seeker as the unedited secret recordings showed that 'Joseph' told Mrs Afolabi he was an asylum seeker during their first meeting.
- d) Ofcom found that 'Joseph' did not tell Mrs Afolabi that his wife had been killed or that his children were starving. Rather 'Joseph' had told Mrs Afolabi that his wife had died and his children were no longer going to school. Ofcom found there was no case of unfairness in this respect.
- e) Ofcom found that the programme's account of 'Joseph' and Mrs Afolabi's first meeting was fair. Ofcom considered that it would have been clear to listeners

that 'Joseph' was asked to return to the DSHU office by Mrs Afolabi so that he could continue to receive help for his upcoming appeal for asylum.

Introduction

This edition of the *Five Live Report* investigated the trade in fake documents to people wishing to enter and remain in the country illegally. The activities of the Detainee Support and Help Unit (DSHU) were examined with the help of undercover reporter 'Joseph', who the programme said posed as an asylum seeker who had recently had his claim for asylum rejected.

'Joseph' met with the DSHU Founder Mrs Comfort Afolabi on two occasions and secret recordings of the meetings were included in the programme. The programme explained that after their first meeting Mrs Afolabi asked 'Joseph' to return the following week so that they could "work together" on his appeal for asylum. During the second meeting Mrs Afolabi gave 'Joseph' the contact details of two people who could help him, one of which was a Mr Adekola. The programme alleged that Mrs Afolabi also wrote down a price estimate for the cost of fake documentation. 'Joseph' met with Mr Adekola and a secret recording of their conversation was included in the programme. Mr Adekola spoke to Mrs Afolabi over the phone before exchanging money with 'Joseph' for documents which were to be picked up at a later date. When 'Joseph' went to collect the fake documents at the DSHU headquarters, his money was returned by another DSHU member of staff. Commentary explained that "something had obviously spooked" Mr Adekola.

The report included an interview with Mrs Afolabi during which she denied any involvement in helping 'Joseph' purchase illegal documents.

Mrs Afolabi is the founder of the DSHU and complained that she and the DSHU were treated unfairly in the programme as broadcast.

The Complaint

Mrs Afolabi's case

In summary, Mrs Afolabi complained that she and the DSHU were treated unfairly in the programme as broadcast in that:

- a) the programme implied that the DSHU was involved in providing fake passports without producing evidence;
- b) the programme edited recordings of her in such a way as to imply she was involved in the alleged fake documents scam;
- c) the programme stated that 'Joseph' posed as an asylum seeker. Mrs Afolabi said that at no point did 'Joseph' tell her that he was an asylum seeker. Therefore the implication that she offered help to 'Joseph' who was posing as an asylum seeker was false;
- d) the programme failed to say that 'Joseph' had told her that his wife had been killed and his children were starving;
- e) the programme did not include the reason why 'Joseph' was asked to return to the DSHU offices after their first meeting. Mrs Afolabi said the programme only stated

that she had told 'Joseph' to come back to the DSHU office so that they could "work together" which she believed was misleading.

The BBC's case

a) The BBC said that the programme did not claim that the DSHU as an organisation was involved in the illegal activity. Rather the programme presented and contextualised the evidence of Mrs Afolabi's involvement in the supply of illegal documents. These allegations were then put to Mrs Afolabi as the Head of the DSHU and included in the programme. The BBC provided Ofcom with several hours of unedited secret recordings which they said were evidence of Mrs Afolabi's involvement in the illegal activities.

b) The BBC maintained the recordings were fairly edited. The BBC said that both the edited and unedited material accurately reflected that Mrs Afolabi was entirely aware of the illegal nature of the services she was offering.

c) The BBC said that the unedited secret recordings clearly showed that 'Joseph' told Mrs Afolabi "I am an asylum seeker" ten minutes into their first meeting. Further the very fact that Mrs Afolabi offered help to 'Joseph' clearly indicated that she was well aware of his status as an asylum seeker.

d) The BBC said that 'Joseph' did not tell Mrs Afolabi that his wife had been killed and his children were starving. As evidenced by the unedited secret recordings, 'Joseph' told Mrs Afolabi that his wife had died back in Zimbabwe and that his children were no longer at school. The BBC said that 'Joseph' was a genuine asylum seeker and this account of his home life in Zimbabwe was accurate.

e) The BBC said that Mrs Afolabi asked 'Joseph' to return to the DSHU office on two occasions. The first was when Mrs Afolabi sent Joseph to visit another asylum expert. Mrs Afolabi asked Joseph to come back after meeting with the asylum expert so they could "work together". This was mentioned in the programme. The second occasion was over the phone while Joseph spoke to Mr Adekola. On this occasion, Mrs Afolabi gave no reason for why she wanted Joseph to return to the DSHU office

Decision

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

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

a) Mrs Afolabi complained the programme was unfair as it implied the DSHU was involved in providing fake passports without producing evidence. In considering this complaint Ofcom first considered whether or not the programme suggested the DSHU had been involved in providing illegal documents and secondly, if Ofcom was satisfied the programme had made such allegations, whether they resulted in unfairness to the DSHU.

After listening to the programme it is Ofcom's view that, although the main focus of the report was Mrs Afolabi, the DSHU was likely to have been affected by the programme's allegations. Ofcom noted that Mrs Afolabi was the founder and current Head of the DSHU and took the view that, given her senior role, her actions impacted directly on the operations of the organisation. Ofcom concluded that there was a risk that any allegation of impropriety by Mrs Afolabi as Head of the DSHU, had the knock-on effect of being allegations of wrongdoing by the DSHU.

In deciding whether or not the allegations resulted in unfairness to the DSHU, Ofcom took account of the context in which the allegations were made and listened to the several hours' worth of unedited secret recordings supplied by the BBC.

Ofcom concluded that the programme did not result in unfairness to the DSHU. In reaching this decision Ofcom noted that the programme makers clearly outlined to listeners that their allegations against Mrs Afolabi and the DSHU were based on the evidence of secret recordings. After listening to both the edited and unedited secret recordings, Ofcom was satisfied that the evidence included in the programme against Mrs Afolabi (edited secret recordings) was fairly presented. In particular, the recordings showed that Mrs Afolabi: suggested to 'Joseph' that he seek work illegally; put 'Joseph' in contact with Mr Adekola (who offered 'Joseph' a fake passport and National Insurance documents); and jokingly told 'Joseph' not to take any thing she told him to the police. Ofcom also noted that the programme makers offered Mrs Afolabi an opportunity to respond to the allegations as the Head of the DSHU, and her response was included in the programme as broadcast. In the circumstances, Ofcom found no unfairness to the DSHU.

b) Mrs Afolabi said the secret recordings had been edited unfairly to imply she was involved in the alleged fake documents scam. As part of its consideration, Ofcom listened to the unedited versions of the recordings. Ofcom found that the edited recordings, included in the programme, were used in the same context as they occurred in the unedited recordings. In Ofcom's opinion both sets of recordings supported the allegation that Mrs Afolabi facilitated 'Joseph's' purchase of illegal documents by putting him in contact with Mr Adekola. As previously noted, the programme makers appropriately offered Mrs Afolabi an opportunity to respond to all the allegations and her denials were included in the programme. As a result Ofcom found no unfairness to Mrs Afolabi in this respect.

c) Mrs Afolabi said the implication that she offered help to an asylum seeker was false because 'Joseph' never said he was an asylum seeker. After listening to the unedited secret recordings Ofcom confirmed that 'Joseph' told Mrs Afolabi he was an asylum seeker during their first meeting. Notwithstanding this fact, Ofcom did not consider that 'Joseph's' status as an asylum seeker would have materially affected listeners' understanding of Mrs Afolabi's alleged involvement in facilitating the purchase of illegal documents. Ofcom found no unfairness to Mrs Afolabi in this respect.

d) Mrs Afolabi complained it was unfair that the programme failed to include that 'Joseph' told her his wife had been killed and his children were starving. The unedited secret recordings showed that 'Joseph' did not tell Mrs Afolabi that his wife had been killed or that his children were starving. Rather 'Joseph' had told Mrs Afolabi that his wife had died and his children were no longer going to school. In the circumstances, Ofcom found no unfairness in this respect.

e) Mrs Afolabi complained that the programme gave a misleading impression about why 'Joseph' was asked to return to the DSHU office. In particular Mrs Afolabi believed the treatment of her statement "work together" was misleading. Ofcom listened to the unedited version of this conversation and compared it to the edited version which appeared in the programme. Ofcom found that the programme accurately summarised the first meeting between Mrs Afolabi and 'Joseph'. In particular the use of the phrase "work together" was used in the correct context. Ofcom considered that the programme made clear to listeners that 'Joseph' was asked to return to the DSHU office by Mrs Afolabi so that he could continue to receive help for his upcoming appeal. In addition Ofcom noted that the programme presenters specifically pointed out that Mrs Afolabi did not act inappropriately during this first meeting by stating: "So far what Mrs Afolabi is doing seems quite legitimate: giving advice". Ofcom concluded that the programme did not give a misleading impression about why 'Joseph' was asked to return to the DSHU office as the use of secret recordings was fair and it would have been clear to listeners that during the first meeting Mrs Afolabi had acted appropriately. Ofcom found no unfairness in this respect.

Accordingly, Ofcom found that there was no unfairness to Mrs Afolabi or the DSHU in the programme as broadcast. The complaint was not upheld.

Other Programmes not in breach/out of remit

10 May – 23 May 2006

Programme	Trans Date	Channel	Category	No of Complaints
4 Music	12/05/2006	Channel 4	Violence	1
90 Minutes With Dr Mahmood	04/04/2006	Channel S	Due Impartiality/Bias	1
99 Ways to Lose Your Virginity	19/05/2006	Channel 4	Generally Accepted Standards	1
A Digital Picture of Britain	09/05/2006	BBC4	Offensive language	2
Albie	08/05/2006	CITV	Offensive language	1
BBC News	02/05/2006	BBC1	Generally Accepted Standards	2
Big Brother 7	18/05/2006	Channel 4	Generally Accepted Standards	1
Black Beauty	30/12/2005	Channel 4	Violence	1
Boom Bang a Bang: 50 Years of Eurovision	16/05/2006	BBC1	Generally Accepted Standards	1
Breakfast	17/05/2006	BBC1	Sex/Nudity	1
Breakfast - BBC R5 Live	04/05/2006	BBC Radio 5 Live	Generally Accepted Standards	2
Bring Back ... The A Team	17/05/2006	Channel 4	Offensive language	1
Celebrity World Cup Soccer Six	14/05/2006	Sky One	Generally Accepted Standards	1
Channel 4 News	02/05/2006	Channel 4	Inaccuracy/Misleading	1
Channel 4 News	12/05/2006	Channel 4	Inaccuracy/Misleading	3
Channel 4 News	08/05/2006	Channel 4	Religious Issues	1
Channel 4 Racing	13/05/2006	Channel 4	Generally Accepted Standards	1
Channel U	21/04/2006	Channel U	Offensive language	1
Chris Moyles	09/05/2006	BBC Radio 1	Undue prominence	1
Comedy Connections	08/05/2006	BBC1	Violence	1
Comedy Lab	12/05/2006	Channel 4	Offensive language	1
Coronation Street	08/05/2006	ITV1	Substance abuse	2
Coronation Street	12/05/2006	ITV1	Animal welfare	1
Dead Ringers	15/05/2006	BBC2	Generally Accepted Standards	1
DIY SOS	15/05/2006	BBC1	Sex/Nudity	1
Dr Who	13/05/2006	BBC1	Offensive language	1
Dr Who	18/05/2006	BBC1	Offensive language	1
Emmerdale	02/05/2006	ITV1	Sex/Nudity	2
Emmerdale	27/04/2006	ITV1	Sex/Nudity	1
Emmerdale	14/05/2006	ITV1	Sex/Nudity	2
Fifth Gear	01/05/2006	Five	Dangerous behaviour	1
Friday Plus	14/04/2006	Bangla TV	Due Impartiality/Bias	1
GMTV	28/04/2006	ITV1	Generally Accepted Standards	1
GMTV	09/05/2006	ITV1	Undue prominence	1
Great Food Live Weekend	29/04/2006	UKTV Food	Dangerous behaviour	1
Hollyoaks	10/05/2006	Channel 4	Generally Accepted Standards	4

Hollyoaks	11/05/2006	Channel 4	Generally Accepted Standards	1
Hollyoaks	14/05/2006	Channel 4	Generally Accepted Standards	1
Iain Lee	10/05/2006	LBC97.3	Generally Accepted Standards	1
Ian Collins	05/12/2005	Talksport	Offence	3
Imitation of Life	31/03/2006	Channel 4	Violence	1
Immigration & Asylum Show	08/05/2006	Legal TV	Generally Accepted Standards	1
In Hell	15/05/2006	Five	Violence	1
ITV News	28/04/2006	ITV1	Due Impartiality/Bias	2
ITV News	04/05/2006	ITV1	Generally Accepted Standards	1
ITV News	12/05/2006	ITV1	Due Impartiality/Bias	1
ITV News	14/05/2006	ITV1	Due Impartiality/Bias	1
Jerry Building: Unholy Relics ...	03/05/2006	BBC2	Generally Accepted Standards	1
John Turner	09/01/2006	BBC Radio Bristol	Impartiality	1
John Turner	03/02/2006	BBC Radio Bristol	Religious Offence	1
John Turner	05/05/2006	BBC Radio Bristol	Due Impartiality/Bias	1
Loose Women	04/05/2006	ITV1	Sex/Nudity	1
Lost & Found	06/05/2006	Five	Offensive language	1
Men and Motors	28/03/2006	Men & Motors	Sex/ Nudity	1
Meridian News	16/03/2006	ITV	Due Impartiality/Bias	1
Model Talk	16/05/2006	Fashion TV	Offensive language	1
Most Haunted Live	05/05/2006	Living	Generally Accepted Standards	1
Mourinho's Ultimate +10 Team	01/04/2006	Channel 4	U18s Sexual Offence	1
Nice House, Shame About the Garden	12/05/2006	Five	Generally Accepted Standards	1
One Tree Hill	19/02/2006	Channel 4	Sex/ Nudity	1
PM	27/04/2006	BBC Radio 4	Generally Accepted Standards	1
Popworld	13/05/2006	Channel 4	Sex/Nudity	1
Real Breakfast Show	02/02/2006	100-101 FM Real Radio	Offensive language	1
Reality With Mahee	20/04/2006	Channel S	Due Impartiality/Bias	1
Reality With Mahee	27/04/2006	Channel S	Due Impartiality/Bias	1
Red Mist 2	05/05/2006	ITV4	Inaccuracy/Misleading	1
Rick Houghton	28/04/2006	Radio City 96.7	Offensive language	2
Rising Damp	15/05/2006	ITV1	Generally Accepted Standards	1
Rob & Chrissie	09/05/2006	Broadland 102	Sex/Nudity	1
Scrum Five	19/03/2006	BBC2	Other	1
Sky News	05/05/2006	Sky News	Due Impartiality/Bias	1
Sky Sports	09/05/2006	Sky Sports	Inaccuracy/Misleading	1
Soccer Night	11/05/2006	ITV1	Offensive language	1
State of Russia	28/03/2006	More 4	Animal welfare	1
Stephen Nolan	28/04/2006	BBC Radio 5 Live	Generally Accepted Standards	1
Talksport	05/04/2006	Talksport	Generally Accepted	1

				Standards
Talksport	08/05/2006	Talksport	Generally Accepted Standards	1
Television X	03/05/2006	Television X	Sex/Nudity	1
The Apprentice	03/05/2006	BBC2	Generally Accepted Standards	1
The Apprentice	10/05/2006	BBC Radio 2	Offensive language	1
The Bradford Riots	04/05/2006	Channel 4	Due Impartiality/Bias	1
The Chris Moyles Show	24/04/2006	BBC Radio 1	Offensive language	1
The Dark Side of Elephants	07/04/2006	Five	Violence	1
The Giblet Boys	26/04/2006	CITV	Offensive language	1
The House of Tiny Tearaways	12/05/2006	BBC3	Religious Offence	1
The Karen Dunbar Show	24/03/2006	BBC1	Generally Accepted Standards	1
The New Paul O'Grady Show	15/05/2006	Channel 4	Generally Accepted Standards	1
The Political Slot	24/04/2006	Channel 4	Due Impartiality/Bias	2
The Search for Animal Farm	19/04/2006	Channel 4	Sex/Nudity	4
The Wright Stuff	10/05/2006	Five	Religious Issues	1
This Morning	09/05/2006	ITV1	Generally Accepted Standards	1
This Morning	12/05/2006	ITV1	Sex/Nudity	1
Tonight with Trevor McDonald	05/05/2006	ITV1	Due Impartiality/Bias	1
Top Gear	08/05/2006	BBC2	Offensive language	1
Top Gear	21/05/2006	BBC2	Generally Accepted Standards	1
Top Gear	14/05/2006	BBC2	Offensive language	1
UEFA Champions League - Live	10/05/2006	ITV1	Sponsorship	2
Wake Up With Wogan	12/04/2006	BBC Radio 2	Generally Accepted Standards	1
Wife Swap	24/04/2006	Channel 4	U18s in Programmes	1
Wife Swap	08/05/2006	Channel 4	U18s in Programmes	1
World Snooker	30/04/2006	BBC2	Generally Accepted Standards	1
You've Been Framed	08/05/2006	ITV1	Animal welfare	1