

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).

Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: www.ofcom.org.uk

Standards cases

In Breach

Viasat

TV3 26 March 2005, 15:30 and ZTV 11 April 2005, 21:00

Introduction

TV3 and ZTV are two Swedish language general entertainment channels broadcast in the UK by Viasat Broadcasting UK Ltd.

On 26 March 2005 TV3 transmitted the football World Cup qualifier match between Sweden and Bulgaria. On 11 April 2005 ZTV broadcast a programme containing highlights of the Swedish premiership football league.

Both of these programmes were sponsored by a number of companies including Bet24Poker, part of Bet24, an online gambling facility. The Bet24Poker logo was shown at the opening of the programmes and at each advertising break. When the logo was onscreen at the opening of the programmes, a voiceover referred to Bet24 as the programmes' sponsor.

At the end of the programmes a different graphic was used featuring playing cards and the voiceover referred to Bet24Poker.

TV3 26 March 2005, 15:30

During the match coverage, the commentators referred on four occasions to Bet24 and the odds that viewers could get at that moment from placing their bets with that company.

When these references were made, a graphic appeared on screen showing unbranded odds relating to potential occurrences in the game - for example the odds on a Swedish win, a Bulgarian win or the odds on a draw.

One viewer complained that such references to the product or services of a sponsor of the programme during the programme were in breach of Section 9.1 of the (ex-ITC) Code of Programme Sponsorship ('the Code'). Section 9.1 of the Code states that, "There may be no reference, whether visual or oral, to the sponsor (or the sponsor's product or service) in the programme or series they are sponsoring. The financial relationship between a sponsor and a broadcaster or programme-maker may create a higher presumption that the inclusion of a sponsor reference is deliberate and/or promotional." Section 9.1.3 notes that "This rule (9.1.1) also extends to generic references to the sponsor's (unbranded) product, service or business. When editorially justified, there may be occasions when a generic reference is justified, but this may never be in a way that suggests the generic reference is promotional for the sponsor."

In addition Ofcom also asked the channel to comment on the complaint in relation to Section 4.1 of the Code. Section 4.1 of the Code states that one of the key principles underpinning the regulation of television sponsorship is "To ensure that programmes

are not distorted for commercial purposes. A sponsor must not influence the content or scheduling of a programme in such a way as to affect the editorial independence and responsibility of the broadcaster.”

ZTV 11 April 2005, 21:00

On three occasions a graphic showing odds on the football matches being discussed by the in-studio experts were shown on screen. Two of these graphics displayed odds being offered by Bet24.com and by another gambling company. The third graphic displayed Bet24 odds only.

One viewer complained that such references to the product or services of a sponsor of the programme during the programme were in breach of Section 9.1 of the Code of Programme Sponsorship (‘the Code’). In addition Ofcom also asked the channel to comment on the complaint in relation to Section 4.1 of the Code.

Response

Section 4.1

Viasat said that the *TV3* broadcast contained graphical representations of unbranded odds that did not breach Section 4.1 of the Code. However Viasat accepted that the programme commentators in the *TV3* coverage did refer to Bet24’s odds and therefore gave Bet24 undue prominence. Viasat told Ofcom that *TV3* accepted that the commentators were wrong to refer to Bet24 without mentioning a range of alternatives and *TV3* had now taken steps to ensure that this will not reoccur.

In relation to the *ZTV* broadcast, Viasat said that the programme commentators did not in fact mention Bet24. References were made only to odds provided by a range of services.

Section 9.1

Viasat said that both the *TV3* and *ZTV* broadcasts were sponsored by Bet24Poker and not Bet24 as alleged by the complainant. As a result there were no references within either broadcast to the sponsor or the sponsor’s product or service within the terms of Section 9.1 of the Code.

Decision

Section 9.1 of the Code requires that there should be no reference made in a programme to the sponsor of that programme.

Viasat stated that the sponsor of the programmes was Bet24Poker and therefore references to Bet24 were not covered by Section 9.1 of the Code. Bet24 is the name of a betting website which is divided into three areas: Poker, Casino and Live Betting. We believe that Bet24Poker therefore forms part of Bet24. It is our view that Bet24 and Bet24Poker are so inextricably linked that Bet24 can be considered to be the sponsor of both broadcasts. The audible reference to ‘Bet24’ and not ‘Bet24poker’ in the opening credits strengthens this view.

The Code, which was in force at the time of broadcast, prohibits any reference to the sponsor in a programme it is sponsoring. The inclusion in these programmes to the betting odds offered by the sponsor suggests the sponsor may have influenced the editorial content and raises questions over the broadcaster’s editorial independence. The references to Bet24 (including Bet24Poker) in both programmes were in breach

of Sections 4.1 and 9.1 of the Code.

The output breached Sections 4.1 and 9.1 (content of sponsored programmes) of the Code of Programme Sponsorship.

Stupid

BBC2, 24 June 2005, 17:00

Introduction

This children's comedy show featured a sketch about a scout leader and his pack tracking the leader's wife and new boyfriend, when the couple were out in the countryside for a picnic. Two viewers were concerned about the general tone of the sketch including the use of word "slapper".

Response

The BBC said that this show worked on different levels for children of different ages; the strong element of slapstick appealed to younger children, while the depictions of dysfunctional adults attracted older children. The broadcaster felt that *Stupid* would primarily be of interest to viewers aged between 9 and 12. It featured some of the blunter language used by young people both to give it a contemporary sound and to contribute to the comedy. The tone of the show was that of pantomime and its fantasy elements established a clear distance from the daily experience of its viewers.

In this sketch, the BBC felt that the language used highlighted the humour of the situation, as there was a mismatch between the character of the scout leader using the language and the contemporary form of abuse. However, the broadcaster believed that "slapper" was a mild term of abuse and was not offensive.

Decision

We agree that the use of this disparaging term for women would not offend the majority of viewers in many contexts. Although the sketch was meant to ridicule the actions of the scout leader, to achieve this meant insulting his wife and her boyfriend. The boyfriend was referred to as "a fancy man" and, apart from the term "slapper", the wife was also called "a cow".

The ex-BSC Code (the Code in force at the time of transmission) states that, in relation to swearing and offensive language, the paramount concern of most adults is for children. The tone of this sketch meant that the language was used in an aggressive and insulting manner. Although this show may appeal to older children, it also included fantasy links between sketches featuring a 'king-figure' and his servant, a rat. We believe that the programme would also appeal to younger children who may not be familiar yet with this language, especially when used in such a manner.

We believe that the language used by the scout leader about his wife was not suitable in a programme specifically made for children.

The sketch was in contravention of the Code on Standards

Resolved

Charlton vs. Manchester City live football

Prem Plus, 2 April 2005, 13:35

Introduction

During the coverage of this football match a red button icon appeared in the top right hand side of the screen. The icon was accompanied by the text "Press (the icon) to see more of the all new Ford Focus". A viewer complained that the inclusion of the icon amounted to inappropriate commercial activity within the programme.

Response

Prem Plus is a channel operated by Sky. Sky explained that the content for each of its channels is played out in the Sky transmission centre from two separate schedules: the first contains details of the channel's programmes, promotional material and advertisements, and the second contains information to control the electronic programme guide, channel banners and data for interactive icons and banners.

In the week before the incident, an upgrade of Sky's play-out automation system had taken place. The icon in question was due to play out over a Ford Focus advertisement that appeared during an advertising break during half-time in the match coverage. The kick-off of the match had been delayed and, as a result, the first half of the match ended late, meaning the advertising breaks shifted. Following the upgrade work, the play-out systems had inadvertently not been reconfigured to ensure that the two transmission schedules were synchronised resulting in the icon appearing at its pre-determined time slot, rather than being synchronised with the (delayed) start of the Ford Focus advertisement (which, in practice, appeared five minutes later than originally scheduled). As soon as the error was discovered it was remedied and no further problems were encountered.

The interactive icon's premature appearance was wholly inadvertent, it could have been removed by viewers at any time during its 29 seconds appearance on screen (by pressing back-up on the remote control), and it did not form part of the editorial content of the programme. Although the icon briefly overlapped with the programme, it would have been readily apparent to viewers that it did not form part of it, and so would not have been confused with the actual programme. Because of this, Sky considered that the inclusion of the icon did not amount to a breach of Ofcom's Programme Code or Rules on the Amount or Scheduling of Advertising. The only reference in the broadcast to a commercial product was on the icon itself. There was no commercial reference actually in the programme (i.e. as part of the editorial content of the programme, for example referred to by the programme commentators/presenters).

Decision

The Rules on the Amount or Scheduling of Advertising require that television advertising be readily recognisable as such and kept separate from other parts of the programme service. Additionally, the Programme Code prohibits commercial products and services being promoted in programmes.

These rules are drawn from European legislation, the Television Without Frontiers (TWF) Directive. Article 10 of the TWF Directive requires that "*Television advertising and teleshopping shall be readily recognisable as such and kept quite separate from*

other parts of the programme service by optical and/or acoustic means". In a paper issued by the European Commission on the interpretation of the Directive, the Commission states that, in accordance with the principle of separation between advertising and editorial content, for advertising using the interactive icon, the icon on which the viewer must click to access the interactive environment must be integrated into an advertisement, itself kept separate and clearly distinguishable from the editorial content. This icon may be inserted during a traditional advertising spot or an advertising spot broadcast using the split screen technique. In the latter case, prior permission must be obtained from the holder of the rights to the programme. In both cases, the advertising message will be subject to the rules on the duration of advertising.

Although the icon appeared distinguishable from the editorial content of the programme, in view of this guidance on the Directive it is clear that the icon should not have appeared in the way it did within the programme. Because, on this occasion, the advertising appeared as a result of a genuine technical error and in view of the prompt action taken by the broadcaster to rectify this issue, we consider the matter resolved.

Complaint resolved

Streak Party

Reality TV, 23 July 2005, 20:00

Introduction

Streak Party was a light-hearted documentary looking at the phenomenon of streaking. The programme included footage of full-frontal views of streakers and swearing ("fuck"). One viewer complained that this was inappropriate at 20:00.

Response

Reality TV said that the programme was given a post-watershed restriction and it had requested that a warning regarding strong language be transmitted. However, due to human error, this was not added to the notes on the programme, which the scheduler should have had, before deciding when to transmit it. Reality TV assured Ofcom that it was reviewing its scheduling procedures to ensure that this did not happen again.

Decision

We agree that that this programme was only suitable for post-watershed transmission. We welcome the broadcaster's acknowledgement of the problem and, in light of the further action taken, consider the matter resolved.

Complaint resolved

Other programmes not in breach/out of remit

7 September – 20 September 2005

Programme	Date	Channel	Category	Complaints
7/7 Attack on London	14/09/2005	Five	Offence	3
Airline	09/09/2005	ITV1	Offence	1
Back to the Future III	10/09/2005	ITV1	Language	1
Balls of Steel	02/09/2005	Channel 4	Offence	2
Balls of Steel	09/09/2005	Channel 4	Offence	1
Balls of Steel	16/09/2005	Channel 4	Offence	1
BBC Coventry	02/09/2005	BBC Coventry	Other	1
BBC News	01/08/2005	BBC1	Offence	1
BBC News	11/09/2005	BBC1	Impartiality	1
BBC News	16/09/2005	BBC1	Offence	1
BBC News	10/09/2005	BBC1	Misleading	1
BBC News 24	04/09/2005	BBC News 24	Offence	1
Bremner, Bird & Fortune	11/09/2005	Channel 4	Offence	3
Britain's Sexual Fantasies	05/09/2005	Five	Sexual Portrayal	1
Britain's Worst Celebrity Driver	11/09/2005	Five	Offence	2
Casualty	11/09/2005	BBC1	Impartiality	2
CD:UK	04/09/2005	ITV1	Offence	1
CD:UK	03/09/2005	ITV1	Offence	1
Celebrity Shark Bait	04/09/2005	ITV1	Offence	1
Century FM	10/01/2005	Century 105	Misleading	1
Channel 4 News	23/08/2005	Channel 4	Offence	2
Channel 4 News	05/09/2005	Channel 4	Offence	1
Channel 4 News	10/09/2005	Channel 4	Offence	1
Coronation Street	29/08/2005	ITV1	Offence	1
Coronation Street	12/09/2005	ITV1	Sexual Portrayal	1
Coronation Street Family Album	11/09/2005	ITV1	Violence	1
Dealing With Dickinson	17/07/2005	BBC1	Language	1
Deep Blue	05/09/2005	BBC1	Offence	1
Departure Lounge	19/08/2005	BBC1	Offence	1
dick and dom in da bungalow	01/09/2005	BBC1	Offence	1
dick and dom in da bungalow	08/09/2005	BBC1	Offence	1
Discovery Real Time Extra	07/09/2005	Discovery	Offence	1
Dispatches	01/09/2005	Channel 4	Offence	1
Don't Panic, I'm Islamic	12/06/2005	BBC2	Offence	1
Emmerdale	14/09/2005	ITV1	Offence	1
Father of the Pride	06/05/2005	Sky One	Offence	1
Fear Factor UK	23/06/2005	Sky One	Offence	1
Fimbles	19/09/2005	BBC1	Offence	1
Five News	08/09/2005	Five	Offence	1
Footprints in the Snow	11/09/2005	ITV1	Religious Offence	1
Fox News	08/07/2005	Fox News	Impartiality	1
Fox News	09/07/2005	Fox News	Impartiality	1
Fox News	07/07/2005	Fox News	Offence	1
Fox News	25/07/2005	Fox News	Offence	1

Fox News	27/07/2005	Fox News	Offence	1
Fox News	22/07/2005	Fox News	Impartiality	1
Futurama	04/09/2005	Channel 4	Offence	1
Galaxy 105	06/09/2005	Galaxy 105	Offence	1
Galaxy Breakfast	16/09/2005	Galaxy105-106	Language	1
Game Guru	17/09/2005	Satellite & Cable	Language	2
GMTV	01/09/2005	ITV1	Offence	1
GMTV	13/09/2005	ITV1	Offence	1
God's Rottweiler?	22/08/2005	Channel 4	Religious Offence	1
Grand Prix	21/08/2005	ITV1	Offence	1
ITV News	15/08/2005	ITV1	Impartiality	1
ITV News	05/09/2005	ITV1	Impartiality	1
ITV News	01/09/2005	ITV1	Offence	1
ITV News	07/09/2005	ITV1	Offence	1
ITV News	14/09/2005	ITV1	Impartiality	1
ITV Soap Challenge	11/09/2005	ITV1	Misleading	1
ITV'S 50 Greatest Shows	10/09/2005	ITV1	Sexual Portrayal	1
Jonathan Ross	18/12/2004	BBC Radio 2	Religious Offence	1
Kirsty's Home Videos	10/09/2005	Sky One	Offence	1
LBC Programme	30/06/2005	LBC97.3	Offence	1
Let 'Em All In	07/03/2005	Channel 4	Offence	1
Marian, Again	05/09/2005	ITV1	Violence	2
Men and Motors	15/09/2005	Men and Motors	Offence	1
Mercury FM	03/09/2005	Mercury 96.6	Offence	1
Meridian News	02/06/2005	ITV1	Impartiality	1
Ministry of Mayhem	21/05/2005	ITV1	Offence	1
Most Haunted	03/09/2005	Living	Misleading	1
Neighbours	07/09/2005	BBC1	Offence	1
No Sex Please, We're Teenagers	06/09/2005	BBC2	Offence	1
Paramount Channel	05/08/2005	Paramount Comedy	Offence	1
Peppa Pig	05/09/2005	Satellite & Cable	Offence	1
Pornography:the Secret History of Civilisation	22/08/2005	UKTV History	Offence	1
Radio Jackie	31/08/2005	Radio Jackie	Offence	1
Real Life: A Murder in the Family	05/09/2005	ITV1	Offence	1
Real Radio South Wales	31/07/2005	Real Radio 100-101FM	Offence	1
Richard and Judy	05/09/2005	Channel 4	Offence	1
Richard and Judy	06/09/2005	Channel 4	Offence	1
Richard and Judy	14/09/2005	Channel 4	Language	1
Rick Stein's French Odyssey	14/09/2005	BBC2	Offence	1
Rose & Maloney	12/09/2005	ITV1	Language	1
Secrets of the Old Testament	05/04/2005	Five	Misleading	1
Sharks on Trial	04/09/2005	ITV1	Offence	2
Sky News	18/08/2005	Sky News	Offence	1
Sky Sports News	27/08/2005	Sky Sports	Offence	1
Spooks	12/09/2005	BBC1	Offence	2
Supernanny	14/09/2005	Channel 4	Offence	2
Talksport	30/08/2005	Talksport	Offence	1

The Babysitter's Seduction	20/04/2005	Five	Violence	1
The Best and Worst Places to Live	09/08/2005	Channel 4	Offence	1
The Bill	18/05/2005	ITV1	Offence	1
The Hits	01/09/2005	The Hits	Offence	1
The Hudson and Pepperdine Show	18/08/2005	BBC Radio 4	Religious Offence	1
The Paul O'Grady Show	12/09/2005	ITV1	Offence	1
The Reunion	16/09/2005	BBC Radio 4	Language	1
The Truth About Female Desire	30/08/2005	Channel 4	Misleading	1
The World's Most Photographed	14/09/2005	BBC2	Offence	1
The Wright Stuff	16/03/2005	Five	Offence	1
The Wright Stuff	08/09/2005	Five	Offence	1
The X Factor	03/08/2005	ITV1	Offence	1
The X Factor	10/09/2005	ITV1	Offence	2
The X Factor	13/09/2005	ITV1	Offence	1
This Morning	09/09/2005	ITV1	Offence	1
Thought For The Day	02/09/2005	BBC Radio 4	Offence	1
Tonight with Trevor McDonald	28/02/2005	ITV1	Impartiality	4
Tonight with Trevor McDonald	09/09/2005	ITV1	Offence	1
Tricky TV	05/09/2005	ITV1	Offence	1
Virgin Breakfast Show	12/09/2005	Virgin Radio	Misleading	1
Viz Fat Slags	08/09/2005	Satellite & Cable	Offence	1
Wife Swap	19/09/2005	Channel 4	Religious Offence	1