

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

Various output, Your TV

(formerly *The Advert Channel*, name change granted 9 February 2005) 18 February 2005, 00:00; 24 March 2005, 20:20; 4 April 2005; 12:30

Introduction

In early 2004 a licence application was made for a channel to be called The Advert Channel which would focus on, and provide studio discussions and editorial material relating to, television advertisements. Broadcasting legislation (see Decision below) requires that there must be a clear separation between advertising and programming material (known as the “separation requirements”). At the time Ofcom took particular care to explain the separation requirements to the applicant, being aware of the potential for confusion that could arise from programming that had advertising as its subject matter.

The Advert Channel began broadcasting in summer 2004. As well as the editorial material about advertising, the channel also subsequently introduced a substantial psychic-related strand called *Your Destiny TV* which featured teleshopping presentations for a range of psychic-related products in addition to live psychic readings described as “entertainment premium rate services”.

From the start of its broadcasting, Ofcom had a number of concerns about The Advert Channel’s output, relating in particular to the identification and separation of advertising and programme material in *Your Destiny TV*, and also to the nature and promotion of its psychic services and products.

We met with the broadcaster in December 2004 to discuss our concerns. Ofcom wanted to re-enforce the importance of the necessary distinction between advertising and programming, and to offer advice on future compliance with advertising, programme and scheduling codes. At that meeting, the licensee insisted that the bulk of its *Your Destiny TV* output was programming and not advertising.

At the same time, the Advertising Standards Authority (“the ASA” - to which Ofcom has contracted out its advertising content regulation functions) advised Ofcom of its concerns over the apparent unwillingness of The Advert Channel to comply with its directions to remove advertising material from air which the ASA considered was in breach of its Advertising Code. The licensee believed it was not in breach of the Advertising Code. Since then, the ASA has adjudicated against The Advert Channel’s advertising output for breaching its prohibition on the advertising of occult-related products and services.

In spite of these extensive interactions between ourselves, the ASA and the broadcaster, there appeared to be continuing problems during the early part of 2005. There were a number of further instances on Your TV (renamed from “The Advert Channel” in early 2005) of output which appeared to confuse the distinction between programming and advertising. We noted examples that seemed to be in breach of both the Commercial References section of the Programme Code, and of the Rules

on the Amount and Scheduling of Advertising (RASA).

We took up several specific instances of apparent code breaches with the broadcaster, and these, together with Your TV's response, and our conclusions, are detailed below.

1. On 18 February 2005, a programme called *Gadgets and Gizmos* featured a series of quiz competitions with entry via premium rate telephone services. Each competition (which was presented as a programme rather than an advertisement) lasted several minutes. They featured two presenters simply describing and discussing, at length and in great detail, positive and complimentary aspects of the prize. The competitions showed the products with close-ups and/or additional footage of it. The questions for the competitions were also, in some instances, based entirely on the product (e.g. "what was the make of the product?"). The *Gadgets and Gizmos* 'programme' contained no editorial material.

We asked the broadcaster to explain how it believed *Gadgets and Gizmos* complied with section 8.4 of the Programme Code (Undue Prominence of a commercial product).

2. On 18 February 2005, another competition appeared in a clearly identified advertising break during the programme *Sport Spots*. It was therefore presumed that this competition was to be seen as an advertisement. However, on 24 March 2005, the same competition appeared within a programme. If the competition was an advertisement, it could only appear within an advertisement break. Its appearance within the programme was not accompanied by any break identification as required by Rule 3.1 of RASA (Identification of Breaks).

We asked the broadcaster how it believed Rule 3.1 of RASA had been complied with in relation to this competition.

3. On 24 March 2005, during the live programme *Your Destiny TV*, viewers were invited to call a premium rate number or to text the studio to obtain a live individual psychic reading. Details of PIN number extensions to the premium rate phone line were also promoted so viewers could contact psychic readers other than those that were live in the studio. These PIN numbers were permanently on the side of the screen. The promotion of premium rate phone numbers within programmes is only permitted in relation to programme support material, defined in section 8.1 of the Programme Code as "materials or services that demonstrate a clear relationship to the content of programmes..." In all other circumstances, premium rate phone numbers are deemed to be commercial products. We queried how the services of the individually promoted psychics were related to the live studio discussion.

We therefore asked the broadcaster to explain how it believed this output complied with Rules 8.1 (Promotions) and 8.4 (Undue Prominence of a Commercial Product) of the Programme Code.

4. Further commercial promotions were made later in the programme when the presenter invited viewers to call a team of psychics "off-screen, on the phone". This was followed by approximately thirty minutes of mixed promotional material featuring invitations to:

- call individual psychics via a premium rate telephone line;
- purchase *Spirit and Destiny* magazine;
- enter various competitions; and

- participate in the programme

Since no advertisement breaks were identified during this period, it appeared that all this output was meant to be programming. Certainly the invitation to participate in the programme appeared to be programme material.

For each of the individual psychics promoted, viewers were told that “all calls contribute to this live psychic show”. Given that, as far as we could ascertain, very few viewers would be able to interact live with the studio at any one time, we questioned this statement. This raised concerns that most of the phone numbers may have been in effect purely promotional. We also felt that calling psychics “off screen” did not give the impression of contributing to the show.

The *Spirit and Destiny* item appeared clearly to be a commercial, even though there were no obvious advertisement breaks.

We asked the broadcaster how it believed Rule 3.1 of RASA (Identification of Breaks) had been complied with in relation to scheduling of the *Spirit and Destiny* item.

5. On 4 April 2005, during *Your Destiny TV*, the presenter regularly identified individual psychics who were available, through premium rate phone numbers, for off-air consultation. Full promotions for such individuals were also broadcast throughout the live programme. Whilst the side-of-screen promotion of psychics (see 3 above) appeared to have ceased since our observation of the output on 24 March 2005, the output still appeared to give undue prominence to commercial services. We asked the broadcaster to comment.

Response

The broadcaster believed that the references to the products featured in *Gadgets and Gizmos* could be justified by the editorial requirements of the programme. The licensee claimed that viewers’ ‘stop-and-see’ time on channels they visit quickly is around three minutes and that information therefore requires rapid repetition.

It believed the content of both the competitions that followed was similarly justified. However, the broadcaster admitted that the competition which subsequently appeared as an advertisement during a break should have been scheduled as a programme competition.

The broadcaster claimed there was editorial justification for the promotion of individual psychics during *Your Destiny TV* on the grounds that all premium rate telephone/text participants “have the chance of being routed through to the on-air team”, with 80% of all texts and 10% of all calls being routed to the studio. The broadcaster further claimed that all calls “contributed” to the live show, as they were monitored and processed to ensure that live output broadly reflected the nature of the queries being received (e.g. work, relationships and divorce) and offered general advice concerning such matters.

The broadcaster did not address the more general issues of programme and advertising separation.

Decision

1. We do not consider that the need to retain an audience provided editorial justification for the rapid repetition of competitions that featured gratuitous prize references/descriptions. We concluded that these competitions could be seen as little

more than advertisements and therefore constituted undue prominence of a commercial product and therefore breached section 8.4 (Undue Prominence) of the Programme Code.

2. As the advertising break during *Sport Spots* contained, by the broadcaster's admission, a programme competition, its broadcast breached Rule 3.1 (Break Identification) of RASA by failing to identify where the actual advertising break surrounding the competition started and finished.

3. We note the broadcaster's assertion that all participants of *Your Destiny TV* steered the nature of programme output and that a number may have had the chance to feature in the programme. However, we judged that the degree of prominence given by the broadcaster to the promotions of individual psychics and access to them via premium rate numbers over-emphasised the individuals' services rather than the programme-related contribution that viewers' participation would make. We therefore concluded that, in respect of the promotion of individual psychics, *Your Destiny TV* was in breach of section 8.4 (Undue Prominence) of the Programme Code.

4. Aside from possible issues of undue prominence in relation to the premium rate phone numbers and viewer competitions featured in the promotional block, the half-hour feature broadcast on 24 March 2005 contained clear programming strands (how to participate in the programme *Your Destiny TV*) and clear advertisements (commercials for *Spirit and Destiny* magazine). There was no identification of breaks when the commercials appeared, which we concluded was in breach of Rule 3.1 (Break Identification) of RASA.

5. Due to the prominence given to the featured psychics in the April broadcast, albeit without the side-of-screen promotions, the same considerations of undue prominence apply as discussed in 3 above. We concluded that that *Your Destiny TV* breached section 8.4 (Undue Prominence) of the Programme Code during its broadcast on 4 April 2005.

Article 10 of Directive 89/552/EEC – the 'Television Without Frontiers' Directive – requires clear separation of programmes from advertising and this is a fundamental principle underpinning European commercial television broadcasting and Ofcom's content code requirements. Throughout much of the *Your Destiny TV* strand it was unclear to us, and would certainly have been unclear to viewers, whether we/they were watching advertising or programming. The heavy promotion of premium rate number services, undue prominence of commercial products in competitions and the lack of clear identification of advertisement breaks all contributed to a sense of confusion about the nature of the material being viewed. We remained seriously concerned that the broadcaster seemed not to understand what was required to comply with Ofcom's codes, especially in view of the earlier meeting and the substantial volume of correspondence since summer 2004. We therefore required the licensee, Your TV, to attend another meeting, and warned it that the imposition of statutory sanctions will be considered in the event of any future breaches of the relevant codes.

The output breached section 8.1 (Promotions) and section 8.4 (Undue Prominence) of the Programme Code and Rule 3.1 (Break Identification) of the Rules on the Amount and Scheduling of Advertising

Note

The above decision was judged against the standards set out in Ofcom's (ex-ITC's) Programme Code.

Any issues arising relating to programme-related material from 25 July 2005 will be considered separately under Ofcom's Broadcasting Code. Stakeholders may be interested to know that Ofcom is currently looking into the wider policy issues arising under Ofcom's Broadcasting Code surrounding:

- what could be considered as legitimate programme-related material
- the use of premium rated telephone services

Music Output

Sangamam Radio, various dates and times in November and December 2004

Introduction

Sangamam Radio is a satellite broadcaster serving the Tamil community. Its trading name is European Tamil Broadcasting Corporation (ETBC).

Twelve listeners objected to its broadcast of songs that they claimed were in support of the Liberation Tigers of Tamil Eelam (LTTE), a proscribed organisation in the UK. A number of the songs broadcast contained lyrics praising the sacrifice made for the LTTE's cause – the creation of a separate Tamil homeland in Sri Lanka. Examples of these include:

- "Take the sword in your hand and lend your shoulder to the Eelam task";
- "To create Tamil Eelam we will behead our enemies"; and
- "Follow Prabhakaran."

One complainant also claimed that radio programming known as the "Voice Of Tigers" was being broadcast live from a terrorist controlled area in Sri Lanka through ETBC Radio in London, the output including "fund collecting" and songs.

While listening to the relevant output we noted the broadcast of the 2004 "Heroes' Day" speech by LTTE leader Velupillai Prabhakaran.

Response

The broadcaster assured us that the "Freedom songs" it broadcast were a personal selection, chosen neither through political motivation nor to promote any person or "section of people", but to attract a wider audience. However, it added that, in future, it would not broadcast songs that supported one side of a political debate or applauded violence. The station also assured us that it maintained editorial control over its news output, including the broadcast of Mr Prabhakaran, and noted that his "Heroes' Day" speech had been aired by other Tamil broadcasters.

Sangamam Radio was unable to provide all the transcripts and English translations of the material we required during the course of our investigation. The broadcaster said that it had lost the relevant recordings when it renewed its logging equipment. However, it assured us that it would comply with these licence obligations in the future.

Decision

Rule 1.1 of the Programme Code (ex Radio Authority) requires that "nothing shall be included in programmes which ... is likely to encourage or incite to crime...".

Although such song lyrics may appear extreme, they must be considered in context, when judging whether there has been a breach of Rule 1.1. Lyrics have a long tradition of dealing with the full range of human experiences and emotions and a reference to a violent act may not, in itself, amount to incitement or encouragement

to crime. Each case must be examined on its own facts.

We are satisfied that the lyrics used here were broadcast in the context of generic, patriotic songs designed to engender support for a political cause and not actually to encourage or incite crime.

Nevertheless, we agree with the broadcaster that the songs applauded violence in support of a political cause.

Therefore, in glorifying and applauding violence, the songs broadcast were in breach of Rule 1.6(a) (Portrayal of Violence) of the Programme Code.

As far as the issue of “fund collecting” is concerned, while listeners may have been aware of methods of funding implicit in some of the songs, we heard no programming that directly exhorted financial contributions.

A station may broadcast from a Tamil perspective, news that is of significance to the Tamil community or others who are interested in Tamil affairs. It may collate its news content from a variety of international or domestic sources. However, Rule 1.3 (General programming on matters of political, public or industrial controversy) of the News and Current Affairs Code requires satellite radio broadcasters, among others, to ensure that programming “should not be conducted in such a way as to give undue prominence, in programming as a whole, to the views and opinions of particular persons or bodies” on matters of political controversy. We welcome Sangamam Radio’s assurance that it maintains editorial control over its news output. However, while Mr Prabhakaran’s speech comprised largely of factual statements, he urged the Sri Lankan government “to resume the peace negotiations without conditions, based on our [the LTTE’s] proposal for an interim self-governing authority”, adding that, “If the Government of Sri Lanka rejects our urgent appeal and adopts delaying tactics, ...we have no alternative other than to advance the freedom struggle of our nation.” We therefore asked the station to detail any output it had broadcast of an alternative view. It cited no such material. The fact that Mr Prabhakaran’s speech had been aired by other broadcasters was irrelevant.

Throughout our investigation we asked the broadcaster to provide various recordings and specific transcripts and translations. Our requests were invariably met with delay and/or incomplete responses, which caused further delay. The broadcaster failed to retain copies of the recordings it had provided, rendering it unable to provide all the transcripts and translations we required. It is a licence requirement that broadcasters retain suitable recordings of their output. Failure to do so is a serious breach of licence conditions.

We intend to meet the broadcaster to explain both the seriousness of its compliance failures and that any repetition is likely to result in the consideration of a statutory sanction.

The station was in breach of Rule 1.6a (Portrayal of Violence) of the Programme Code (ex-Radio Authority), Rule 1.3 (General programming on matters of political, public or industrial controversy) of the News and Current Affairs Code (ex-Radio Authority) and condition 8(2) of its licence.

Night of the Living Dead

Open Access 2, 24 May 2005, 20:30

Introduction

A viewer informed us that Open Access 2, a free-to-air channel, broadcast the classic horror movie, *Night of the Living Dead*, starting at 20:30. The version of the film broadcast was rated '18' in 2005 by the British Board of Film Classification.

Response

The broadcaster asserted that the original impact horror of the film had now been "*replaced with its perception as a comedic farce*". All the stronger elements were broadcast after the watershed.

The broadcaster did not consider it possible that it could have offended a viewer coming across the material unawares: the film was famous and was well-signposted, both in the EPG and the opening titles. It was significant that the viewer himself was not offended.

Decision

The relevant Code (at the time of broadcast, this was the ex-ITC Programme Code) clearly states that no '18' rated version should start before 22:00 on any channel, unless there is a satisfactory security mechanism in place, eg a PIN system. The channel had no such mechanism.

The broadcast was in breach of Section 1.4 of the Programme Code.

Sweet FM

9 September 2005, 13:00

Introduction

The licensee was granted a Restricted Service Licence in Belfast from 1 September 2005 to 28 September 2005.

We received three complaints from people who had been offended by what they felt were sectarian comments made on the station.

Response

The station explained that, due to a technical fault, it was unable to supply the recording we requested.

Decision

As no recording was available, we were unable to listen to the station's output. It is a condition of a licence that the licensee provides recordings as required by Ofcom. The failure to provide a recording is a serious breach of a licence. This will be held on record and taken into account should a new licence be applied for in future.

The station was in breach of Condition 8 of its Restricted Service Licence (Retention and production of recordings)

The Wireless Company FM Ltd

TWCfm 17 November to 14 December 2003

Introduction

TWCfm held a short-term radio Restricted Service Licence to broadcast between 17 November and 14 December 2003 in the Melton Mowbray area. During an investigation of a Fairness and Privacy complaint (see page 20), Ofcom requested a transcript of the relevant items of the programme. Despite four requests, TWCfm did not supply a transcript. (See Summary of Adjudication in the Fairness and Privacy section of this bulletin).

Decision

It is a condition of a Restricted Service Licence that licensees supply transcripts to Ofcom when requested to do so. Failure to supply a transcript constitutes a breach of the licence.

There was a breach of Condition 3(5) of the Restricted Service Licence.

Resolved

Mike Bassett: Manager

ITV 1, 29 September 2005, 22:00

Introduction

17 viewers complained to Ofcom about an episode of this comedy drama in which the principal character, Mike Bassett refers to the 'death' of his club chairman with the line "*He's done a Jock Stein on me*". This was a reference to the sudden death in 1985 of the former Scottish and Celtic FC manager during a Scottish international match. Complainants were particularly offended by the fact that the programme was transmitted only 9 days after the 20th anniversary of Stein's death.

Response

When made aware of the complaints, ITV sent a letter of apology to Celtic Football Club – as most of the complaints had come from the Club or its supporters. The broadcaster explained that the comment was intended as an observation about the pressures of football, not an offensive remark about Jock Stein. It emphasised that no disrespect towards the Stein family was intended or implied.

The broadcaster apologised for any offence and said that it would remove the offending line from the repeat version of the show.

Decision

We welcome ITV's apology and consider the matter resolved.

Complaints resolved

Your Destiny

You TV 2, 26 July 2005

Introduction

A viewer complained that You TV 2 broadcast this programme with an on-screen logo indicating that it was live when in fact the output had been shown on You TV an hour earlier. The programme invited viewers to call or text a premium rate number.

Response

You TV 2 explained that the channel was launched on 25 July 2005 and that there was an inadvertent delay in adding a 'Recorded earlier' logo on screen; however, this was rectified on 27 July 2005. You TV 2 apologised and said that there was no intention to mislead viewers.

Decision

Broadcasters should take particular care where transmitting pre-recorded material which invites viewers to interact with the programme by calling a premium rate number.

However, in view of You TV 2's actions, we consider the matter resolved.

Complaint resolved

Kirsty's Home Videos

Sky One, 1 August 2005, 13:00

Introduction

This programme included a 'home video' clip of a skateboarder falling off a skate ramp. We received a complaint from a viewer about graffiti containing an offensive message and swearing ("fuck").

Response

Sky said that the graffiti, which appeared to the side of the television screen, had not been noticed before broadcast and it apologised for any offence caused to viewers. As soon as Sky was made aware of the issue, the graffiti was digitally blurred for all future broadcasts. Programme editors had also been reminded of the importance of reviewing the entirety of the screen for incidental content, such as graffiti.

Decision

In view of the swift remedial action taken by Sky, we consider the matter resolved.

Complaint resolved

ITV News

ITV 1, 12 September 2005, 18:30

Introduction

A viewer complained that an ITV News story about Loyalist riots in Belfast was introduced against a background graphic featuring the flag of the Irish Republic and Republican graffiti.

The viewer felt this gave the impression that Republicans were rioting, which was untrue.

Response

ITV said a misunderstanding had led to an error on screen, for which it apologised.

There was no dispute that the rioting in Belfast that weekend was by Loyalists, and the report had made this clear. Unfortunately the image selected for the screen behind the newscaster was taken from a general Belfast file, which featured a Republican mural.

The broadcaster said the error was regretted, and that steps had been taken to ensure there was no repeat. The editorial team had been reminded of the need for more detailed briefing of the Graphics team. And the Graphics department had been reminded of the potential dangers of using “generic” images.

Decision

Both the introduction and the report itself made it quite clear that this news story was about Loyalist rioting. As a result, the background image looked out of place.

We accept ITV’s explanation of how this mistake occurred. We do not believe there was any intention to mislead viewers.

Complaint resolved

Rick Shaw

Kerrang!, 16 June 2005, 10:50

Introduction

During this morning show, an unedited version of the song 'Hollaback Girl' by Gwen Stefani was played, containing the word "shit". This was followed by a track by the Red Hot Chilli Peppers, 'Around the World', which contained the word "motherfucker".

A listener said that they were shocked to hear this language during a daytime show.

Response

The station provided us with a copy of their 'Language Policy in Music' document which is intended to clearly define the balance between retaining musical credibility and reducing potential listener offence. The document includes a breakdown of how the station typically categorises music tracks, the vetting process applied before songs are broadcast and instances where editing techniques are likely to be applied.

In addition, Kerrang! told us that while the inclusion of the Red Hot Chilli Peppers track was in line with this policy, the use of "motherfucker" was a scheduling mistake. This was rectified straightaway, with the track being removed from the daytime playlist. The station also removed all tracks containing debateable language for the duration of the school holidays.

Decision

The language in the lyrics ("motherfucker") was inappropriate for the time of broadcast. However we accept that this was a genuine mistake and welcome the measures that the station has in place to deal with such issues and the additional steps taken following the incident. We consider the matter resolved.

Complaint resolved

Five Live

9 September 2005, 15:30

Introduction

A listener complained that during a film review, a clip contained strong language which the complainant thought was inappropriate to broadcast at a time when children were likely to be listening. The clip was taken from 'Green Street' and included the dialogue: *'they are lying fucking scum'*.

Response

The BBC said that Five Live's film reviewer had joined the presenter in the studio at the Oval, and space and technical facilities were limited. The film clips had been prepared by the producer at Television Centre. The clips were then played in from television centre on verbal cues. When enquiries were made subsequently, it emerged that the offending clip was a 'rough cut' which had been stored in the electronic programme production system. A fully edited clip was prepared for broadcast, but then inadvertently deleted from the system. As a result, the unedited clip had been transferred into the live running order.

The programme editor has reminded all staff of their duty to ensure every pre-recorded item meets BBC guideline standards on language. He has also instructed duty editors and producers that clips must be checked before broadcast from live running orders to ensure that the mistake made on this occasion is not repeated.

Decision

Following the item the presenter immediately apologised. While we appreciated that the use of an unedited clip was a genuine error, we nevertheless welcomed the broadcaster's assurance that staff had been reminded of the need to rigorously check pre-recorded material to ensure its suitability for broadcast. In view of the presenter's apology and the broadcaster's subsequent actions, we considered the matter resolved.

Complaint resolved

Fairness and Privacy Cases

Where a complaint is not upheld there is only a note of the outcome. For a copy of a full adjudication, whether the complaint is upheld or not, go to Ofcom's website at www.ofcom.org.uk/bulletins/ or send a stamped addressed envelope to: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

Summary of Adjudication

Complaint from Mr Ian Perry

The Final Showdown, TWCfm, 14 December 2003

Ofcom has upheld part of this complaint of unfair treatment and unwarranted infringement of privacy from Mr Ian Perry about *The Final Showdown* broadcast on TWCfm.

Mr Perry complained that the presenters abused and ridiculed him in the programme in a way which was unfair. He also complained that his privacy was unwarrantably infringed in that the presenters provided information which made it possible for listeners to identify him and where he lived.

Ofcom found that Mr Perry, while never explicitly named in the programme, was likely to have been identifiable as the person referred to and that abusive comments made about him were unfair.

Ofcom found that Mr Perry's privacy had not been infringed as, although he was likely to have been identifiable, details of his name, location and occupation were already in the public domain, having been placed there by Mr Perry, and the programme did not disclose any new information of an inherently private nature about Mr Perry.

Unfairness in the programme – Upheld in part

Infringement of privacy in the programme – Not upheld

Summary of Adjudication

Complaint by Ashurst (Solicitors) obo P&O Ferries Ltd

Trouble at the Top, BBC2, 25 January 2005

An edition of the documentary series, *Trouble at the Top*, examined efforts by the company, SpeedFerries, to start a new cross channel passenger ferry service. Ofcom received a complaint from a competitor, P&O Ferries, claiming that the broadcast was unfair. Ofcom upheld the following parts of the complaint.

The programme makers should have provided P&O with an appropriate opportunity to respond, given that the programme made serious allegations against P&O. The failure to do so was unfair to P&O.

In the programme, SpeedFerries implied that P&O was engaged in a variety of “dirty tricks” designed to damage its operations. In the absence of giving P&O an opportunity to respond, the programme makers failed to take reasonable care to ensure that all the material facts had been considered and fairly presented.

Ofcom found no unfairness in other elements of the programme about which P&O complained.

Ofcom has directed the BBC to broadcast a summary of the adjudication

Unfairness in the programme – Upheld in part

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Mr Max Dingle	Who Killed P.C. Blakelock?	BBC2, 2 March 2004	Unfair treatment
Mr Peter Parker	Anglia News	ITV1 (Anglia), 3 February 2005	Unfair treatment
Mr Nelson Roe	The Ferret	ITV1 (HTV Wales), 18 November 2004	Unfair treatment & unwarranted infringement of privacy
Mr Gerald Blyth	Drugs Wars	BBC1 (Scotland), 30 October 2003	Unfair treatment & unwarranted infringement of privacy

Other programmes not in breach/out of remit 6 October – 18 October 2005

Programme	Trans Date	Channel	Category	No of Complaints
A Place in Greece	06/10/2005	Channel 4	Offence	1
A Place in Slovakia	26/09/2005	Channel 4	Language	1
A Touch of Frost	25/09/2005	ITV1	Accuracy	1
Afterlife	26/09/2005	ITV1	Offence	1
Afterlife	03/10/2005	ITV1	Violence	1
Afterlife	01/10/2005	ITV1	Offence	2
Akash Radio	04/08/2005	Akash Radio	Offence	1
Alias	24/05/2005	Five	Advertising	1
Alpha ETC Punjabi	28/03/2005	Alpha ETC Punjabi	Offence	1
Alpha ETC Punjabi	28/05/2005	Alpha ETC Punjabi	Offence	1
Anatomy for Beginners	25/01/2005	Channel 4	Offence	3
Anatomy for Beginners	26/01/2005	Channel 4	Offence	4
Anatomy for Beginners	27/01/2005	Channel 4	Offence	2
Anatomy for Beginners	30/01/2005	Channel 4	Offence	1
Ant & Dec's Gameshow Marathon	24/09/2005	ITV1	Offence	1
Armando Iannucci's Charm Offensive	08/06/2005	BBC Radio 4	Offence	2
Balls of Steel	30/09/2005	Channel 4	Offence	1
BBC News	01/10/2005	BBC1	Offence	1
BBC News 24	05/09/2005	BBC News 24	Offence	1
Bikini Beach	01/06/2005	The Wrestling Channel	Language	1
Bodies	24/09/2005	BBC2	Offence	2
Bremner, Bird & Fortune	02/10/2005	Channel 4	Offence	1
Bremner, Bird & Fortune	09/10/2005	Channel 4	Language	1
Bright 106.4FM	07/10/2005	Bright 106.4FM	Language	1
Britain's Streets of Booze	06/10/2005	BBC1	Offence	1
Buffy the Vampire Slayer	05/09/2004	Kanal 5 (Sweden)	Offence	1
Buffy the Vampire Slayer	07/10/2004	Kanal 5 (Sweden)	Violence	1
Buffy the Vampire Slayer	03/11/2004	Kanal 5 (Sweden)	Offence	1
C4 Promo	18/09/2005	Channel 4	Offence	1
Camera Crackups	05/08/2005	Jetix	Offence	1
Casualty	01/10/2005	BBC1	Offence	1
Catherine Tate Show	21/07/2005	BBC2	Offence	1
Channel 4 News	19/09/2005	Channel 4	Offence	1
Channel 4 News	29/09/2005	Channel 4	Offence	1
Channel 4 Test Cricket	10/08/2005	Channel 4	Advertising	1
Charlotte Church: Confessions ...	06/10/2005	ITV2	Offence	1
Charmed	01/11/2004	Five	Violence	1
Charmed	17/09/2005	Five	Religious Offence	1

Come Dine with Me	05/10/2005	Channel 4	Language	1
Come Dine with Me	14/10/2005	Channel 4	Language	1
Coronation Street	03/10/2005	ITV1	Offence	1
dick and dom in da bungalow	04/10/2005	BBC1	Offence	1
Dirty Tricks	07/10/2005	Channel 4	Offence	3
Dispatches	18/11/2004	Channel 4	Accuracy	1
Dispatches	22/09/2005	Channel 4	Impartiality	1
Don't Get Me Started	27/09/2005	Five	Accuracy	1
Don't Panic, I'm Islamic	19/06/2005	BBC2	Offence	1
Don't Panic, I'm Islamic	12/06/2005	BBC2	Offence	1
Eastenders	26/09/2005	BBC1	Offence	1
Emmerdale	05/10/2005	ITV1	Offence	1
Extreme Sports Channel	10/10/2005	Extreme Sports	Language	1
Family Affairs	30/09/2005	Five	Sexual Portrayal	1
Family Affairs	03/10/2005	Five	Offence	1
Friday Night With Jonathan Ross	15/04/2005	BBC1	Offence	1
Friday Night With Jonathan Ross	30/09/2005	BBC1	Offence	1
Friday Night With Jonathan Ross	14/10/2005	BBC1	Offence	1
Friends	16/10/2005	Channel 4	Offence	1
Futurama	08/10/2005	Channel 4	Language	1
GMTV	04/10/2005	ITV1	Offence	1
GMTV	11/10/2005	ITV1	Offence	1
Holby City	04/10/2005	BBC1	Accuracy	3
Holby City	11/10/2005	BBC1	Offence	1
Hollyoaks	18/08/2005	Channel 4	Offence	1
Honey We're Killing the Kids	14/10/2005	BBC3	Offence	1
Hoodies Attack	25/09/2005	Sky One	Offence	1
It Shouldn't Happen to a TV Vet	28/09/2005	ITV1	Offence	1
ITN News	05/10/2005	ITV1	Offence	1
ITV News	30/09/2005	ITV1	Offence	1
ITV News	02/10/2005	ITV1	Offence	1
ITV News Channel	07/10/2005	ITV	Offence	1
Jack Dee Live at the Apollo	03/10/2005	BBC1	Offence	1
Jamie's Great Escape	10/10/2005	Channel 4	Offence	1
Jamie's Great Escape	12/10/2005	Channel 4	Offence	2
Jamie's Great Escape	17/10/2005	Channel 4	Offence	1
Jericho	16/10/2005	ITV1	Offence	1
Jetix	27/08/2005	Jetix	Offence	1
Johnny Vaughan Breakfast Show	26/09/2005	Capital FM	Violence	1
Jonathan Ross	20/09/2005	BBC Radio 2	Offence	1
Jordan and Peter: Marriage & Mayhem	25/09/2005	ITV2	Offence	1
Killer Shark Live	03/10/2005	Five	Offence	1
Killer Shark Live	02/10/2005	Five	Offence	1
LBC Programme	05/10/2005	LBC97.3	Offence	1
Life on the Rock	16/09/2005	EWTN	Religious Offence	1
Little Europe	23/09/2005	BBC2	Impartiality	1
Live Now Pay Later	27/09/2005	Channel 4	Offence	1
Location, Location, Location	04/10/2005	Channel 4	Misleading	1
Loose Women	24/08/2005	ITV1	Offence	1

Loose Women	11/10/2005	ITV1	Misleading	1
Martin Lawrence Live: Runteldat	03/09/2005	Sky Movies	Offence	1
Mechannibals	25/09/2005	BBC2	Offence	1
Meet the Magoons	19/08/2005	Channel 4	Offence	3
Ministry of Mayhem	27/08/2005	ITV1	Offence	1
Ministry of Mayhem	01/10/2005	ITV1	Offence	1
Ministry of Mayhem	08/10/2005	ITV1	Offence	1
Mirror, Signal, Manoeuvre	16/10/2005	BBC1	Language	1
My Penis and I	21/07/2005	BBC3	Offence	1
Newsnight	09/09/2005	BBC2	Accuracy	1
Nighty Night	27/09/2005	BBC3	Offence	1
No Sex Please, We're Teenagers	06/09/2005	BBC2	Offence	1
Pacific Blue	09/12/2004	Kanal 5 (Sweden)	Offence	1
Panjab Radio	02/02/2005	Panjab Radio	Offence	1
Pepsi Chart Show	02/10/2005	Virgin Radio	Misleading	1
Pete & Geoff Breakfast	28/09/2005	Virgin Radio	Offence	1
Popworld	08/10/2005	Channel 4	Offence	1
Primary Geography	26/09/2005	BBC2	Misleading	1
QI	30/09/2005	BBC2	Religious Offence	1
Question Time	06/10/2005	BBC1	Impartiality	1
Ramadan Radio	18/10/2004	Ramadan Radio	Religious Offence	1
Real Life: A Murder in the Family	05/09/2005	ITV1	Offence	1
Richard and Judy	29/09/2005	Channel 4	Offence	1
Richard and Judy	04/10/2005	Channel 4	Offence	1
Richard and Judy	05/10/2005	Channel 4	Offence	1
Sexcetera	15/09/2005	Living	Sexual Portrayal	1
Sexology: Obscene Machines	04/10/2005	Channel 4	Offence	1
Sky News	20/09/2005	Sky News	Offence	1
Sky News	03/10/2005	Sky News	Offence	1
Smallville	10/11/2004	TV-3	Violence	1
Smallville	19/08/2005	TV-3	Offence	1
Swinging	07/10/2005	Five	Language	1
T4	01/10/2005	Channel 4	Offence	1
Talksport	08/10/2005	Talksport	Impartiality	1
The Bigger Picture with Graham Norton	29/08/2005	BBC1	Offence	1
The Bill	30/09/2005	Uk Gold	Offence	1
The Bill	13/10/2005	ITV1	Offence	3
The Brief	07/10/2005	ITV1	Scheduling	1
The Chris Moyles Show	26/09/2005	BBC Radio 1	Offence	1
The Farm	06/10/2004	Five	Offence	1
The Golden Hour	14/09/2005	ITV1	Offence	2
The Hits	05/10/2005	The Hits	Offence	1
The Jeremy Kyle Show	10/10/2005	ITV1	Offence	1
The Last Word	11/10/2005	More4	Offence	1
The Man Who Predicted 9/11	05/09/2005	Channel 4	Offence	1
The Paul O'Grady Show	07/10/2005	ITV1	Offence	1
The Pride of Britain Awards	04/10/2005	ITV1	Offence	1

The Simple Life	03/10/2005	Channel 4	Offence	1
The Simpsons	01/06/2005	Sky One	Offence	1
The X Factor	24/09/2005	ITV1	Language	1
The X Factor	01/10/2005	ITV1	Language	1
The X Factor	03/09/2005	ITV1	Religious Offence	1
The X Factor	08/10/2005	ITV1	Religious Offence	4
Thunderball	02/09/2004	Kanal 2	Violence	1
Tittybangbang	20/09/2005	BBC3	Offence	1
Today Programme	19/08/2005	BBC Radio 4	Accuracy	1
Top Gear	25/09/2005	BBC2	Offence	1
Trigger Happy USA	15/10/2005	E4	Offence	1
UEFA Champions League - Live	13/09/2005	ITV1	Offence	1
Underground Britain	29/09/2005	BBC2	Offence	1
Vectone Bangla	26/04/2005	Vectone Bangla Paramount Comedy	Misleading	1
Viz Fat Slags	08/09/2005	BBC	Offence	1
Waking the Dead	10/10/2005	BBC	Violence	1
Weakest Link	29/09/2005	BBC2	Offence	1
Weakest Link	10/10/2005	BBC2	Offence	1
Who Do You Think You Are	24/09/2005	BBC2	Language	1
Wife Swap	19/09/2005	Channel 4	Language	1
Woman's Hour	29/09/2005	BBC Radio 4	Offence	1
X-Rated: The Sex Films they tried to Ban	25/09/2005	Channel 4	Offence	1
You've Been Framed	01/10/2005	ITV1	Offence	1